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BOURDIN'S
EXPOSITION OF
THE LAND TAX,

INCLUDING THE
RECENT JUDICIAL DECISIONS, AND THE INCIDENTAL CHANGES IN
THE LAW EFFECTED BY THE TAXES MANAGEMENT ACT,
WITH OTHER ADDITIONAL MATTER.

THIRD EDITION
THOROUGHLY REVISED AND CORRECTED

BY
SHIRLEY BUNBURY, A.K.C.,
OF THE INLAND REVENUE DEPARTMENT, SOMERSET HOUSE,
ASSISTANT-REGISTRAR OF LAND TAX.

LONDON:
STEVENS AND SONS, 119, CHANCERY LANE,
Tax Publishers and Booksellers.

1885.

Engl. L. Co.



LONDON:

PRINTED BY C. F. BOWORTH, GREAT NEW STREET, FETTER LANE, E.C.

PREFACE TO NEW EDITION.

THE Commissioners of Inland Revenue, in their 24th Annual Report, stated that, in accordance with the recommendation of the Statute Law Committee, a Bill had been drawn by their Junior Standing Counsel for consolidating the Land Tax Acts.

It was found, however, after consultation with the officers of the Department, that it was not practicable to consolidate in its entirety the very numerous statutes relating to this branch of Revenue, including "Sales," "Assignments," "Optional Contracts," and other matters affecting private interests.

A fresh Bill was subsequently drawn, which, although limited to the codifying of the Land Tax Redemption Acts only, included certain simplifications and improvements in the procedure, which experience in the working of Redemptions had shown to be desirable.

For reasons, however, which it is not necessary here to mention, the Bill was not submitted to Parliament,

"expectata seges vanis elusit aristis,"

but as regards one of the changes proposed in it—the adoption of a fixed number of years' purchase

instead of the present varying and cumbrous method of calculation—the Commissioners of Inland Revenue, in their 28th Report, lately issued, state as follows:—"It would, in our opinion, be advantageous to simplify the process of Redemption of Land Tax, and probably the most expedient way to do this would be to fix a given number of years' purchase as the price; every Land Tax payer would then himself know with certainty the exact amount it would cost to redeem the Land Tax on his property, and the number of Redemptions would probably be larger than at present."

The Editor of this Book has felt that although a concise statute on the whole subject was not at present in existence for the guidance of Clerks to Land Tax Commissioners and others, yet that the production after the lapse of fifteen years of a later edition of Bourdin's Treatise, to contain the recent important decisions of the Courts, the official instructions relating to Redemptions, as well as other useful information, might be of some service to Tax Officials generally, and to the Public.

He therefore ventures to submit this present Edition to all those interested in the subject to which it refers.

S. B.

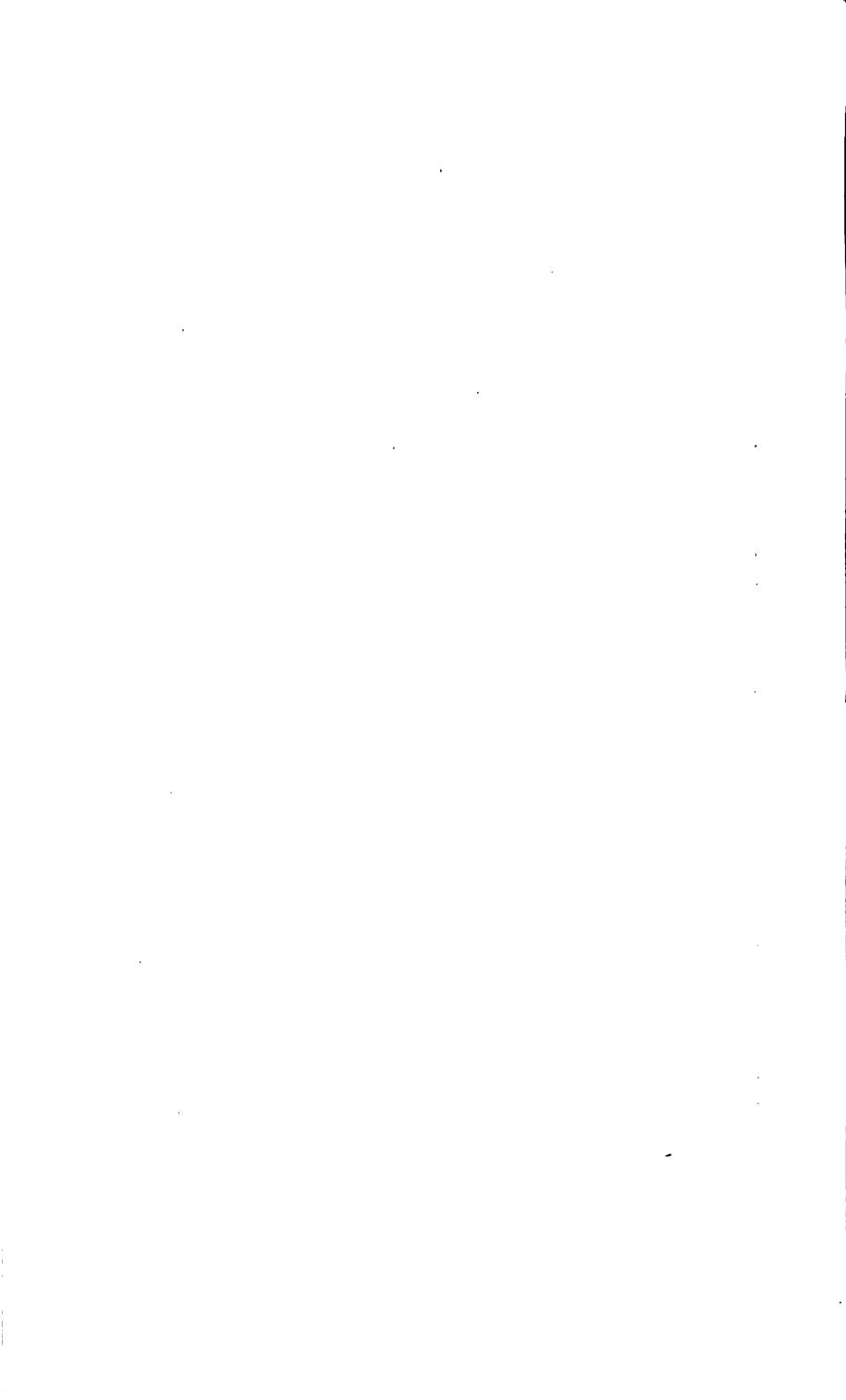
SOMERSET HOUSE.

October, 1885.

PREFACE TO FORMER EDITIONS.



THE object of the present work is to give an abstract of the Statutes which regulate the imposition and redemption of the Land Tax, so far as its redemption has operated in creating charges upon land. The provisions for the assessment and collection of the tax are contained in numerous Acts, which are mainly repealed or obsolete, thus rendering any investigation of the existing law a work of trouble and uncertainty, even to members of the legal profession. From similar causes much difficulty is experienced in ascertaining the precise effect of many of the clauses of the Acts under which a large proportion of the Land Tax has been redeemed. It may readily be understood that a measure of such magnitude, and of so complex a character as the redemption of the Land Tax, required at the outset repeated amendment to remove the difficulties which arose in its practical administration. Many of the provisions of the Amending Acts having been framed to meet exceptional cases, and others for purely administrative purposes, a minute analysis of the whole would tend rather to obscure than elucidate the subject. The general effect of them is, however, shown, and all the provisions bearing upon the rights acquired by redemption, have been fully explained.



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App. Cas. ..	Appeal Cases.
Atk.	Atkyn's Reports—Chancery.
B. & Adol. ..	Barnewall and Adolphus—King's Bench.
B. & Ald. ..	Barnewall and Alderson—King's Bench.
B. & C.	Barnewall and Cresswell—King's Bench.
Blac. H.	Henry Blackstone's Reports.
B. & P.	Bosanquet and Puller—Common Pleas.
B. & B.	Broderip and Bingham—Common Pleas.
Cald.	Caldecott's Settlement Cases—King's Bench.
C. B.	Common Bench Reports—Common Pleas.
C. & K.	Carrington and Kirwan—Nisi Prius.
C. & P.	Carrington and Payne—Nisi Prius.
Co. Lit.	Coke upon Littleton.
Dougl.	Douglas—King's Bench.
E. & B.	Ellis and Blackburn—Queen's Bench.
Eq. Rep.	Equity Reports—Chancery.
Exch.	Exchequer Reports by Welsby, Hurlstone, and Gordon.
G. & D.	Gale and Davison—Exchequer.
Hare	Hare's Reports—Chancery.
H. & H.	Horn and Hurlstone—Exchequer.
H. & N.	Hurlstone and Norman—Exchequer.
Jur.	Jurist—All the Courts.
Kay & J. ...	Kay and Johnson—V.-C. Wood.
Law Rep. ...	Law Reports—All the Courts.
L. J.	Law Journal Reports—All the Courts.
L. T.	Law Times Reports—All the Courts.
M. & S.	Maule and Selwyn—King's Bench.
M. & R.	Manning and Ryland—King's Bench.
M. & W.	Meeson and Welsby—Exchequer.
Mer.	Merivale—Chancery.
Moore	J. B. Moore—Common Pleas.
Pr.	Price's Reports—Exchequer.
R. & M.	Ryan and Moody—Nisi Prius.
Scott, N.R. ..	Scott's New Reports—Common Pleas.
Stark.	Starkie—Nisi Prius.
T. R.	Term Reports—King's Bench—Durnford and East.
T. & R.	Turner and Russell—Chancery.
Ves.	Vesey's Reports—Chancery.
Wils.	Wilson—King's Bench.
Y. & C.	Younge and Collyer—Exchequer, Equity.

INTRODUCTION.

“THE origin of Land Taxes in this country,” says Sir John Sinclair, in his *History of the Public Revenue*, “may be traced to the duty called *escutage* or *scutage*, which resulted from the feudal system.” This duty appears to have been first levied in the fifth year of the reign of Henry II., and was a pecuniary satisfaction in lieu of Knight service, required to be rendered by the holder of a certain quantity of land, denominated a Knight’s fee (*a*). Before this time, however, a tax was

(*a*) Opinions differ concerning the extent of land comprised in a Knight’s fee (*feodum militare*), it being estimated by some writers to comprehend five hydes of land, while others incline to consider it as amounting to twelve plough-lands, a plough-land being as much land as one plough could plough in a year. In the reign of William I., these Knight’s fees appear to have numbered 60,215, and the holders were bound to attend their lords to the wars at their own expense, for forty days in every year, if called upon, which attendance was their *reditus* or return for the land they held. Those who held only half a Knight’s fee were only bound to attend twenty days, and so on in proportion. After a time, instead of attending in person, the holders of these Knight’s fees contrived to get their service commuted for a certain sum of money, which payment was called *scutagium*, or shield-money; and, upon this composition for military services becoming general, regular assess-

occasionally levied on land by royal authority. William I. imposed a tax varying from 1*s.* to 6*s.* upon every hyde of land (*b*) ; which tax was called Danegeld, from its being raised to prepare against a pretended attack of the Danes. In the reign of William II. an annual tax of twelve-pence was assessed upon each hyde of land, producing about 15,000*l.* ; and in the same reign a tax of 4*s.* per hyde of land was also raised, not excepting church lands (*c*). Henry I., upon the marriage of his daughter, in the eighth year of his reign, received 3*s.* upon every hyde of land (*d*). But the levying of taxes of this description, and especially of the scutages, becoming most oppressive from the arbitrary manner in which they were exacted, a stipulation was introduced into Magna Charta (c. 12), that no scutage should be imposed without the consent of the Common Council of the realm ; and by 25 Edw. I. cc. 5 and 6, and subsequent statutes, it was provided that the King should take no aids, tasks, talliage, or tax, but by the common consent of the great men and Commons in Parliament.

The taxes occasionally raised specifically upon land, as well as the scutages, &c., merged at length into the tax called the subsidy, introduced in the reign of Richard II.

ments under the name of scutage soon followed. Originally, the tax varied from one to two marks per Knight's fee, but in the reign of Edward I., each Knight's fee paid a scutage of 40*s.*

(*b*) A hyde of land is said to have generally consisted of 100 or 120 acres. (Brady, Hist of Eng.)

(*c*) See History of the Exchequer, by Madox, who adds, "whilst it was collecting, the Church opposed, claiming its exemption, but could not prevail."

(*d*) Rudborne's Parl. Hist., p. 257.

This was a tax on all persons in respect of their reputed estates after the nominal value of 4*s.* in the pound for lands, and 2*s.* 8*d.* for goods; whilst aliens were to contribute in double proportion. From the time of Henry II., tenths and fifteenths were also granted by Parliament, which were temporary aids issuing out of personal property, being the real tenth or fifteenth part of all the moveables belonging to the subject. These were first levied by assessments made whenever a fresh aid was granted; but in 8th Edward III., a valuation was made throughout England of the fifteenth part of every town-ship, &c., and the rate recorded in the Exchequer—the amount in the whole being 29,000*l.* (*e*). In all subsequent grants of fifteenths, this sum was taken as a basis of assessment; so that, owing to the alteration in value of land and money, it was necessary in later times, in order to raise the supply required, to depart from the ancient rule of granting only one subsidy and two fifteenths. The first occasion upon which this rule was broken through was at the time of the Spanish Invasion in 1588, when the Parliament granted to Queen Elizabeth two subsidies and four fifteenths, and under Charles I. a still larger number was voted (*f*).

The subsidy being also assessed upon an early valuation, the rate of repartition became almost nominal; for from the causes previously stated, a lay subsidy appears never to have exceeded 70,000*l.*, nor a clerical subsidy, including

(*e*) 1 Sincl. 44.

(*f*) In 1640, twelve subsidies were estimated at about 600,000*l.*

the monasteries, 20,000*l.* The estates of the clergy were, until 15 Car. II. c. 10, assessed by their own convocation, after the rate of 4*s.* in the pound, according to the valuation of their livings in the King's books.

These subsidies and fifteenths continued to be granted until the outbreak of the civil wars, at which period the Long Parliament, in order to provide for the subsistence of their forces, levied monthly assessments according to certain fixed rates. This system was continued under the Commonwealth; when a twelvemonth's rate was fixed at 840,000*l.*, or 70,000*l.* a month, for England; 144,000*l.*, or 12,000*l.* a month, for Scotland; and 216,000*l.*, or 18,000*l.* a month, for Ireland—making a total of 1,200,000*l.* These assessments were levied by a uniform rate on the income from real property, and on the estimated annual value of personalty; that is, 20*l.* of personalty, or 1*l.* the annual value thereof at 5 per cent., was rated exactly the same as 1*l.* of income from realty.

From this time, periodical assessments were made upon the above principle, and the sums to be levied were fixed according to the requirements of the State (*g*). Such

(*g*) Dr. Davenant, writing in 1695, observes, in his "Essay on Ways and Means," that the first attempt of reducing assessments to some equality was made in the year 1660. The House of Commons, as may be seen from their Journals [Vol. VIII. p. 178], had then in debate the settling 100,000*l.* per annum in compensation of the Court of Wards and Liveries, and a committee was ordered to frame and bring in an equal apportionment of the said sum upon all the counties of England, which was done accordingly, and delivered to the House November the 8th, 1660, and is as followeth:—

assessments were, in substance, the same as those raised ever since the reign of William and Mary under the name

Yorkshire :	£	£		£
West Riding	2,520		Warwick	1,800
North Riding	1,930		Worcester	1,800
East Riding	1,350		Bedford	1,400
	—	5,800	Stafford	1,400
Devon		5,000	Nottingham	1,400
Essex		4,800	Derby	1,400
Kent		4,800	Lancashire	1,600
Suffolk		4,800	Cheshire	1,400
Norfolk		4,800	Rutland	380
Somerset		4,000	Huntingdon	900
Bristol (City)		250	Northumberland	700
Lincolnshire		4,000	Durham	700
Hampshire		3,000	Cumberland	400
Cornwall		2,400	Westmoreland	300
Wiltshire		2,700	Monmouth	800
London		4,000	Anglesea	260
Middlesex		3,000	Brecknock	450
Dorsetshire		2,000	Cardigan	350
Northampton		2,500	Carnarvon	260
Gloucester		2,500	Carmarthen	450
Hertford		1,800	Denbigh	450
Buckingham		1,900	Flint	260
Sussex		2,600	Glamorgan	700
Surrey		1,800	Merioneth	220
Cambridge and Isle of Ely ..		1,800	Montgomery	550
Shropshire		1,900	Pembroke	500
Berkshire		1,700	Radnor	240
Oxfordshire		1,700		
Leicester		1,800		
Hereford		1,600		
				£100,020

The compensation referred to was in respect of the rights of the Crown to fines on wardships, marriage, and other feudal revenues surrendered by Charles II., and which had been collected through the Court of Wards and Liveries. The proposed assessment on lands was not, however, carried into operation—a tax upon the

of Land Tax, and were even before then occasionally so designated.

Sir John Sinclair observes, that upon the accession of William and Mary, "the circumstances of the country were such, that no tax could be depended upon as sufficiently productive that was not imposed upon land, in the produce of which the wealth and income of England at that time principally consisted. That it might be rendered as efficient as possible, new assessments were taken of the property and income that each individual possessed. But the rate was far from being equal. Those who were attached to the principles established at the Revolution were forward to show their zeal in favour of the new Government, and gave in a fair statement of their real situation; whilst the secret and avowed friends of the exiled family, the sordid and avaricious, gave in a very different account, estimating their property at the lowest rate at which it could be calculated. Hence the assessments, since known under the name of the Land Tax, were not in any respect so productive as they might have been."

The valuation above referred to was made in pursuance of the Act 4th William and Mary, c. 1, which directed an assessment of 4s. in the pound upon all real estate assessed on the *bonâ fide* rack-rent, and on offices (except naval

sale of ale and beer being substituted for it, by 12 Car. II. c. 24. Davenant adds, "This apportionment was many months in forming, and made, no doubt, with great deliberation and judgment, since all the most considerable men of those times were of that committee."

and military); and on personal estate 2*s.* per 100*l.*, or 4*s.* in the pound on 6*l.*, the then legal rate of interest; stock on land and household property being exempt. The King's Remembrancer in the Exchequer was required by the Act (s. 9), to engross in a book made of parchment the several sums returned to him as assessed upon every county, riding, city, and town, and every hundred, wapentake, parish, division, town, and place therein, which returns the Commissioners appointed for putting the Act into execution were therein directed to make. The sum realised by the assessment amounted to 1,922,712*l.* Five Acts followed, imposing a certain pound rate upon the same description of property; but in the subsequent year, owing to the sum raised by this mode of assessment showing an annual decrease (*h*), it was deemed expedient that a specified sum should henceforth be levied, which sum was fixed at £1,484,015 : 1*s.* 11 $\frac{3}{4}$ *d.*, by the 9 & 10 Wm. III. c. 10.

By reason of some difficulties which thereupon arose in apportioning the quotas to be paid by certain districts, the Act of the following year, the 10 & 11 Wm. III. c. 9, which granted a like sum of £1,484,015 : 1*s.* 11 $\frac{3}{4}$ *d.*, directed that the proportion of tax which each district was found to

(*h*) "There has also been a trial of another 4*s.* pound rate, which, by reason, all oaths were waived, and very small penalties put upon the concealment, and the commissioners not of the King's nomination, as I am informed, hath fallen short of the two millions that were expected from it, so that other methods must be taken if you would make it anything equal or effectual."—Marquis of Halifax : Postscript to Essay on Taxes, &c. (1693), in Somers' Tracts, Vol. IX.

have borne under the assessment made pursuant to the Act 4th William and Mary, c. 1, should determine the ratio in which it was to contribute towards making up the quotas the Act imposed upon the several counties, cities, and hundreds as therein expressed (i).

(i) The following amounts were raised under the head of Land Tax in each year, from the accession of William and Mary to the 25th March, 1702, William III. dying on the 8th March in that year:—

1689 : £412,925, by 1 W. & M. c. 3—

Real and Personal estate to contribute 68,820*l.* a month for six months, as by 29 C. 2, c. 1, to be assessed equally, by a pound rate on all lands, tenements, hereditaments, annuities, rent-charges, and other rents, parks, warrens, goods, chattels, stock, merchandise, offices (other than military or naval), tolls, profits, and all other estates, both real and personal. Personal estate being rated on 6*l.* per 100*l.*, the then current rate of interest.

1689 : £496,108, by 1 W. & M. c. 20—

1*s.* per 1*l.* on Real estate assessed on the *bonâ fide* rack-rent, and Personal estate 6*s.* for every 100*l.* of value thereof, or 1*s.* in the pound on 6*l.* (debts, stock on land, and household goods, exempted).

1690 : £1,015,732, by 1 W. & M. sess. 2, c. 1—

2*s.* per 1*l.* on Real estate, and Personal estate 12*s.* per 100*l.*

1690 : £507,860, by 1 W. & M. sess. 2, c. 5—

1*s.* per 1*l.* on Real estate, and Personal estate 6*s.* per 100*l.*

1691 : £1,651,702, by 2 W. & M. sess. 2, c. 1—

Real and Personal estate, including stock on land, to contribute by an equal pound rate, as by 1 W. & M. c. 3.

1691 : £1,651,702, by 3 W. & M. c. 5—Ditto.

1692 : £1,922,712, by 4 W. & M. c. 1—

4*s.* per 1*l.* on Real estate, assessed on the *bonâ fide* rack-rent, and Personal estate 24*s.* per 100*l.*, or 4*s.* in the pound on 6*l.*, the annual value thereof; stock on land and household goods exempted.

From the passing of this Act, to the year 1798, the Land Tax was voted annually, and the Act under which the grant was thus yearly levied fixed the amount to be raised for the particular year, and named the pound rate at which the same should be assessed. The rates during this period ranged from 4s. in the pound, which was the highest rate named, to 1s. in the pound, the lowest imposed. In the year 1798, the usual Act was passed for granting the Land Tax for the service of that year. This Act, the 38 Geo. III. c. 5, directed the sum of 1,989,673*l.* to be raised in England and Wales, and fixed the contin-

1693 : £1,913,488, by 5 W. & M. c. 1—Ditto.

1694 : £1,860,039, by 6 & 7 W. & M. c. 3—Ditto.

1695 : £1,736,248, by 7 & 8 W. 3, c. 5—Ditto.

1696 : £1,244,789, by 8 & 9 W. 3, c. 6—

3s. per 1*l.* on Real estate, and Personal estate 25s. per 100*l.*;
also a poll and wages tax.

1696 : £418,646, by 8 & 9 W. 3, c. 24—

1s. per 1*l.* on Real estate, additional.

1697 : £1,484,015, by 9 W. 3, c. 10—

18s. per 100*l.* of Personal estate, or 3s. in the pound on 6*l.* per cent. the annual value thereof, and Real estate by a pound rate, the residue of the fixed sum.

1698 : £1,484,015, by 10 W. 3, c. 9—

18s. per 100*l.* of Personal estate, or 3s. per 1*l.* on 6*l.* per cent. Real estate the residue of the fixed sum.

1699 : £989,965, by 11 W. 3, c. 2—

12s. per 100*l.* of Personal estate, or 2s. per 1*l.* on 6*l.* per cent. Real estate the residue of the fixed sum.

1700 : £1,484,148, by 12 & 13 W. 3, c. 10—

18s. per 100*l.* of Personal estate, or 3s. per 1*l.* on 6*l.* per cent. Real estate the residue of the fixed sum.

(Hansard's Parl. Hist. Appendix.)

gent for Scotland at 47,954*l.*, which sum was the amount paid by that country since the Union. In accordance with the established practice, the Act mentioned the quotas to be set upon counties and certain divisions, towards raising the amount to be paid in England and Wales, and required that such quotas should be still levied within the several divisions and subdivisions, in proportion to the sums respectively assessed thereon by the Act 4th William and Mary. The quota for Scotland was also to be raised according to the proportions specially named in the said Act.

Before this time, however, the principle of assessment observed under the first Land Tax Acts had been widely departed from. Personal estate, which it was evidently intended should contribute the larger share of the annual quota granted (*k*), had been gradually relieved from assessment; and to such an extent, that in 1798, the proportion of the quota borne by pensions, offices, and personal estate together, amounted only to 150,000*l.* (*l*),

(*k*) Lord Loughborough, in delivering judgment in the case of *Astle v. Grant* (2 Dougl. 722), remarked of the Land Tax, "This Tax, although commonly called a Land Tax, is not in its nature a charge upon the land. It is a charge upon the faculties of men, estimated first according to their personal estate, secondly by the offices they hold, and lastly by the land in their occupation. The land is but the measure by which the faculties of the persons taxed are estimated." See pp. 34, 35, as to repeal of Land Tax on offices, and foot-note on p. 95, as to Scotch Land Tax on personalty.

(*l*) The Land Tax on personal estate was abolished in the year 1833, by the Act 3 Wm. IV. c. 12. The amount raised in the previous year throughout England and Wales was 5,214*l.* 8*s.* 4*d.*, in the following proportions:—

whilst lands, tenements, and other property contributed the remainder.

In the month of June of that year, Mr. Pitt produced his scheme for the redemption of the Land Tax, which was brought into operation by the Act 38 Geo. III. c. 60. The object of this measure was to diminish the pressure of the public debt in the market by causing the absorption of a large amount of Stock. In order to carry out the

County.	Amount Assessed.	County.	Amount Assessed.
	£ s. d.		£ s. d.
Bedford	—	Brought forward	3,782 19 10½
Berks	116 10 0	Rutland	—
Bucks	25 4 10	Salop	—
Cambridge	61 3 0	Somerset	445 15 4½
Chester	16 18 6	Southampton	45 5 3
Cornwall	140 13 5½	Isle of Wight....	—
Cumberland	—	Stafford	21 6 1½
Derby	78 6 8	Suffolk	96 16 0
Devon	685 4 2½	Surrey	362 7 0
Dorset	62 11 0	Sussex	14 14 8
Durham	—	Warwick	0 16 6
Essex	1 0 0	Westmoreland ..	4 16 9
Gloucester	22 7 9	Wilts	110 19 8½
Hereford	—	Worcester	165 19 5½
Hertford	85 8 0	York	161 10 11
Huntingdon	64 12 6	—	—
Kent	5 16 5	Anglesea	—
Lancaster	26 19 1½	Brecon	—
Leicester	12 2 5	Cardigan	—
Lincoln	150 1 7½	Carmarthen	—
London & Midlax.	1,260 11 11	Carnarvon	—
Westminster	—	Denbigh	—
Monmouth	—	Flint	—
Norfolk	841 14 8½	Glamorgan	—
Northampton....	46 9 10	Merioneth	—
Nottingham	—	Montgomery	1 0 8
Northumberland .	—	Pembroke	—
Oxford	79 3 11	Radnor	—
Carried forward	3,782 19 10½	Total	5,214 8 4

plan, the Land Tax, which by the assessment of the current year was charged upon the several counties, ridings, stewartries, cities, boroughs, cinque ports, towns, and places in Great Britain, in respect of lands, tenements, and hereditaments, was made perpetual upon such counties, ridings, &c., subject to redemption; and the quotas thus rendered a fixed charge have been therein levied (minus the redeemed portion thereof), from the passing of such Act to the present time.

The quotas upon parishes cannot be varied (*m*). They are to be yearly raised in such parishes by an equal pound rate upon all the unexonerated lands, &c., therein. Owing to the quotas being thus fixed in perpetuity, the inequality of assessment, which prevailed even at the time when the tax formed the subject of an annual grant, has become much more apparent at the present day, especially in certain districts.

It is obvious, for instance, that many towns and parishes which in the year 1798 might have been paying a quota towards the fixed sum to be raised in Great Britain proportionate to the then annual value of the lands, &c., within their limits, would at the present day, by reason of their greatly increased wealth, be contributing an amount totally disproportionate to their modern value. On the other hand, parishes which, half a century ago, were populous and flourishing, and, by their accidents of situation or otherwise, are unable to present similar increase in value, maintain nearly the original rate of repartition of

(*m*) See foot-note to p. 23 (*h*).

their quota. Hence it is that many of our large commercial towns which have sprung into importance within the present century now contribute a rate from one farthing to one penny in the pound only, when others pay a shilling pound rate; and that in the metropolitan districts of St. Paul, Covent-garden, St. Mary-le-Strand, St. Ann, and others, the assessments vary from one to two shillings in the pound, and upwards; whilst the quotas for St. Pancras, Marylebone, and Paddington, may be levied at a less rate than one penny.

The unequal distribution of the tax was much insisted upon when Mr. Pitt brought before Parliament his plan for the redemption of the Land Tax, and was put forward as one of the chief obstacles to the measure; his principal opponent, Sir George Sinclair, contending that the inequality would be thereby perpetuated. In the debate on the bill, which took place on the 9th May, 1798 (*n*), Mr. Pitt did not deny the existence of this inequality, but objected to take any steps to remedy the evil, on the ground that no proposition had been made for an equalisation of the tax, although it was voted annually. He said, "I am ready to admit that I consider it to have been an original defect in the present plan of repartition, *that no periodical revision was fixed*. I think it would have been wise to have made such a provision, and that it would have been happy for the country if it had been done. Two important guards would be necessary, to prevent the inequality being too great, and at the same time not to

(*n*) Parl. Hist. Vol. XXXIII.

discourage improvement. The principle not having been at first recognised, and property having been since transferred without any attention to it, would it be wise, just, or popular, to make a new valuation? I think, after so many years' experience has shown that no inclination to establish a different repartition prevailed, we ought not to allow much weight to the objection that to perpetuate the tax would be to perpetuate the inequality." He added, "Does this measure give any new facility for a general Land Tax? No; it leaves the question of a more equal repartition where it found it. The only thing necessary to be provided, as expressly as any legislative provision can guard, is, that if ever a new Land Tax is imposed, it shall not be imposed upon those who have redeemed in any different proportion from that on those who have not redeemed. It would be necessary to provide that the amount of what may have been redeemed should be deducted from any new impost. It appears to me that such a provision would secure those who shall take the benefit of redemption as much from any additional charge in future on that account, as those who had not bought up their Land Tax at all."

Sir John Sinclair, who spoke at great length in opposition to the bill, quoted the remarks upon the Land Tax made by Sir Robert Walpole in 1732, when proposing to revive the tax upon salt, in lieu of part of the Land Tax. In the course of those remarks Sir Robert Walpole stated (o) :—"There is no tax that ever was laid upon the

(o) Parl. Hist. Vol. VIII., pp. 943—967.

people of this nation, that is more unjust and unequal than the Land Tax. The landholders bear but a small proportion to the people of this nation or of any nation; yet no man contributes any the least share to this tax but he that is possessed of a landed estate; and yet this tax has been continued without intermission for above these forty years." Further on he observes:—"The Land Tax is the most grievous, the most unequal, and the most oppressive tax that was ever raised in this country;" and again, "There are some landed gentlemen that pay a Land Tax equal to the full value of their estates; while others equal to a third part of the real value; and generally those gentlemen who suffer most by this partiality are those whose ancestors were a sort of Knight-errants for the Revolution." It might be said that as the minister had in contemplation the bringing in of his Excise scheme, he was interested in putting the Land Tax in a most unfavourable light on this occasion; still, he was followed by Mr. Pulteney, who, though opposing the substitution of the salt duty for the Land Tax, remarked, "It is well known that there are many landed gentlemen who pay a groat of the shilling in the pound Land Tax; it is certain that there are few or no landed gentlemen who pay the whole shilling; there is not, I believe, one estate in England that is rated to the full value with respect to the Land Tax" (*p*). In a debate in 1751, when a Land Tax

(*p*) In 1746 appeared a pamphlet entitled "An Essay on the Inequality of our Present Taxes, particularly the Land Tax," by an anonymous writer, in which the inequality of the Land Tax is denounced in the following terms: "The Land Tax, which, though

of 3s. in the pound was proposed, Mr. W. Thornton complained of its inequality: he said:—"The Land Tax is so very partial a tax, that any other method of raising money is preferable to it, and the present manner of assessing it is unequal and unjust."

it pretends to raise one-fifth of the yearly income of the country, does not, in fact, raise a tenth, perhaps not a twelfth, and that with such manifest irregularity, partiality, and injustice, as no court or assembly of men, was the fact brought fairly in question before them, could or ought to countenance."

With regard to the mode of assessing it, the author remarks: "Instead of any inquiry directed to be made, what may be the value of the lands in each county, out of which the 4s. in the pound shall be raised, a certain sum is fixed upon each county, which in some counties may, upon an average, amount to 2s., in others to 1s., and in some scarce to 6d. in the pound, but does not in any county of England amount to 3s., and I verily believe that, at this day (1746), there is not a personal estate that pays 1s. in the pound.

"I have taken much pains to estimate how much, upon an average, each county pays. *London, Westminster, and Middlesex pay the highest*; but none of these pay 3s. in the pound, nor is there any county that pays 2s. except, perhaps, Surrey, Sussex, Hertford, Bucks, Oxon, Warwick—they may pay about 2s.; Kent, Norfolk, Suffolk, Hants, and the midland counties pay about 1s. 6d., 1s. 10d., and 1s. 11d.; the great counties of York, Somerset, and Devon, about 1s. 6d.; Cornwall less; and in Wales and Lancashire, and the northern counties, they pay under 1s.

"Scotland pays *a fortieth part* of the Land Tax of England, though, upon reasonable computation, the value of her lands is one-sixth of that of England.

"Though I have mentioned London, Westminster, and Middlesex as paying 3s., I have good reason to believe that 2s. 6d. is the most they pay. But what is more extraordinary is, that some parishes in each district pay full 4s., whilst others scarcely pay a third part—nay, even in the same parish, some pay half as much more as others."

Sixteen years later, Mr. C. Townsend, in successfully opposing a grant of 4*s.* in the pound for the service of the year 1767 (*q*), declared that "this new imposition of a tax, so unequally laid, doubled the injustice by oppressing a set of men whose patient acquiescence in the time of necessity merited the earliest relief from the state."

It is difficult to understand why no attempt was made, during the time when the Land Tax was imposed yearly, to remedy a defect so constantly and so forcibly exposed both by statesmen and writers, whose comments appear to have always remained unchallenged; the more so, as the inequality of repartition was pointed out even at the period of the first imposition of the tax. The Marquis of Halifax, writing in 1692, adverts to it in his "Essay upon Taxes, calculated for the present juncture of affairs in England" (*r*). After observing that the Land Tax was but a military contribution taken up in the Civil War, and proportioned to the condition of the kingdom as it then stood forty years ago, he adds, "The inequality is so exorbitant both between county and county, division and division, parish and parish, and impossible to be rectified without a punctual survey of the whole; and lying wholly upon the landlord, where estates are not upon lives or fines; wherein the dignified clergy pay not one groat, nor money nor personal estate come in to the aid; and which lies so heavy upon the nobility and gentry above

(*q*) The grant of a Land Tax at 3*s.* in the pound was substituted, and it was understood to have been the first money bill carried against the Ministry since the Revolution.

(*r*) Somers' Tracts, 1 Coll. Vol. IV.

all others, to the weakening and diminishing their estates, who are the chief support of the monarchy: I take it to be the most impolitick and unreasonable method of raising great sums by that ever was introduced in any nation, and impossible to be long borne and continued." This inequality of distribution is confirmed by Adam Smith, who remarks that "the valuation, according to which the different counties and parishes were assessed to the Land Tax by the 4 William and Mary, was very unequal even at its first establishment." But he observes, at the same time, "A Land Tax assessed upon each district, according to an invariable canon, though it should be equal at the time of its first establishment, necessarily becomes unequal in process of time, according to the unequal degrees of improvement or neglect in the cultivation of the different parts of the country. As the tax upon each district does not rise with the rise of the rent, the Sovereign does not share in the profits of the landlord's improvements." Notwithstanding these reiterated complaints of the inequality of repartition, it can hardly be disputed that by reason of the great augmentation in the value of property throughout Great Britain, within half a century from the first grant of the tax, even those districts which appeared the most heavily assessed paid considerably under the rate per pound annually imposed, the main grievance consisting in the fact that the other districts contributed in a still less proportion. This circumstance may explain the slight support those repeated appeals for equalisation received; the representatives of the districts in which a lighter repartition prevailed being naturally interested in main-

taining the existing rate of distribution. If, indeed, a revision had been determined upon, it would have been necessary to depart from the practice of naming the total sum to be raised in the Act granting the supply; otherwise the revision would have resulted in the mere shifting of a portion of the already reduced tax from the higher charged districts to those more lightly assessed, instead of causing both to contribute in proportion to their increased value. From the time, however, when the Land Tax was made perpetual, the revenue was, of course, excluded from deriving any benefit from the improving condition of the property chargeable with the duty (*s*).

(*s*) In Belgium, where the Land Tax is also raised by fixed quotas imposed upon the several provinces in that country, the loss resulting to the revenue from this mode of assessment has been lately to some extent provided for, as all new buildings are made liable to a distinct charge beyond the quota, payable by the district where they lie. The quotas are set against the different provinces as follows:—

	FRANCS.
Antwerp	1,346,103
Brabant	2,817,373
West Flanders	2,352,033
East Flanders	2,606,153
Hainault.....	2,637,527
Liege	1,520,525
Namur	977,978
Limburg.....	686,156
Luxemburg	556,152
Total.....	15,500,000

There is also raised an additional tax of 18 per cent. on the above. In France a specified sum is annually named, to be levied as a Land Tax (*contribution foncière*); and the Act by which it is granted fixes the charge to be sustained by each department. For the incidence of this tax see the very able work of M. Esquirou de Parieu, “*Traité des Impôts, &c.*,” 4 vols., Paris, 1866.

PART I.

STATUTES.

FROM the fourth year of the reign of William and Mary (as before shown), the duties raised in England, under the head of Land Tax, were levied at rates varying from one shilling to four shillings in the pound, according to the exigencies of the times, by Acts annually passed for such purpose, down to the year 1798, when so much of the quota of Land Tax granted by the Act of that year, the 38 Geo. III. c. 5, as was assessed upon lands, tenements, and hereditaments, was made perpetual by the 38 Geo. III. c. 60, subject to redemption, which latter Act continued the powers and provisions of the 38 Geo. III. c. 5, for assessing and levying the unredeemed portion of the tax. These powers and provisions were also continued by the 42 Geo. III. c. 116, which repealed most of the 38 Geo. III. c. 60, and were practically confirmed by the 53 Geo. III. c. 123. This group of statutes, together with the 16 & 17 Vict. c. 74, and the 16 & 17 Vict. c. 117, s. 1, are the principal Acts relating to the subject, but there are others of less general importance, referred to in this book, which need not here be cited (*a*).

The substance of the existing enactments, in the order in which they are brought into operation for the due raising of the duties, may be more conveniently considered in detail.

(*a*) It is necessary here to include the 43 & 44 Vict. c. 19 (Taxes Management Act, 1880), which incidentally makes some minor alterations and additions with regard to the administration of the Land Tax. For the sake of conciseness it is hereafter referred to as the "T. M. A." By sect. 7 of that enactment a reference is to be made to it with regard to the Act 38 Geo. III. c. 5. The expression "Land Tax Acts" in the T. M. A. means "any Act or part of any Act relating in any way to the assessment or redemption of the Land Tax" (vide sect. 5).

PART II.

PROPERTY CHARGEABLE, AND EXEMPT.

First, as to property assessable.

The following are declared liable to assessment:—

All and every manors (*a*), messuages, lands (*b*), tene-

(*a*) The lord of a manor is not assessable for fines paid on deaths, admissions, or alienations, and other casual profits, but only for quit rents, which are annual and certain, the grounds for such exemption being, that as the lands in the hands of the copyholders are chargeable equally with freehold lands, they would, if the lord were assessed in respect of the fines, have to bear an undue proportion of tax in those years in which such casual profits happened. The mere circumstance, however, of these profits being casual could hardly be held to secure their immunity from assessment (although much stress has been laid thereon as an argument for their exemption), when it is remembered that the profits arising from mines, quarries, tolls, &c., which are of an equally fluctuating nature, are expressly made chargeable to Land Tax.

The principal reason assigned for the non-rateability of fines, in the case of *Astle v. Grant* (2 Dougl. 722), appears to have been, that the Land Tax was an annual impost; and as such grounds for exemption have ceased to exist since the tax has been made per-

(*b*) A waterworks company is *not* liable to pay Land Tax *in respect of the land* through or on which, by a parliamentary power, it is entitled to lay, and does lay, its mains and pipes for the conveyance of water, such a power being only in the nature of an easement, and therefore not making them holders of "land or of an hereditament" within the Land Tax Acts. *Chelsea Waterworks Company v. Bowley*, 17 Q. B. 358; 15 Jur. 1129; 20 L. J. Q. B. 520; 17 L. T. 284.

ments, quarries, mines, iron mills, furnaces, and other iron works, salt springs and works, alum mines and works, parks, chases, warrens, woods, underwoods, coppices, and all fishings, tithes (c), tolls (d), annuities (e), and all other

petual, an inference subversive of their title to exemption might, it is conceived, be drawn therefrom, in the absence of the more valid reasons first alleged.

In delivering judgment, in the case adverted to, Lord Loughborough said, "This question was truly considered as of great concern by the public at large. It has undergone a very deliberate examination, and we are all of opinion that the lord of the manor is not bound to make any deduction for Land Tax out of a fine deu for admission on a descent, which is the present case. The grounds which led us to this determination lie in a very narrow compass. In the first place, the Land Tax is *annual*, and, however probable its continuance may be, there can be no legal presumption as to the future intention of the Legislature, and there can be no deduction by anticipation of *an uncertain future burthen*."

(c) By the Tithe Commutation Act, 6 & 7 Wm. IV. c. 71, s. 69, every rent-charge, payable instead of tithes, is subject to all parliamentary, parochial, county, and all other rates, charges, and assessments, in like manner as the tithes commuted for such rent-charge were previously chargeable.

(d) Tolls are liable as distinct tenements. *Vauxhall Bridge Co. v. Sawyer*, 6 Exch. 504; 17 L. T. 144; 20 L. J. Ex. 304. Tolls chargeable, notwithstanding redemption of Land Tax on site of bridge. *Mitchell v. Charing Cross Bridge Company*, 24 L. J. Q. B. 74; 24 L. T. 233; 4 Ell. & Bl. 549; affirmed in error, 25 L. T. Q. B. 131 (in error). See also *The Company of Proprietors of Waterloo Bridge v. Cull*, 28 L. J. Q. B. 70; 5 Jur. (N. S.) 464; 32 L. T. 158.

(e) Whether an annuity or rent-charge out of the profits of the New River Company is to bear the full assessment to the Land Tax, or to have the benefit according to the proportion of a reduction in consequence of an assessment upon the profits of company at an under value, *quere*? The bill by the annuitant was

yearly profits, and all hereditaments, fee farm rents, and all other rents, payments and sums of money, issuing out of any lands (38 Geo. III. c. 5, ss. 4 and 24).

These are to be charged with as much equality and indifference as is possible, by a *yearly assessment* (*f*), to be made at an *equal pound rate* (*g*), not exceeding four shillings in the pound, upon the real yearly value thereof, towards raising the quotas made perpetual by the 38 Geo. III. c. 60 (*h*), upon the several cities, boroughs, towns,

dismissed, the Court refusing to raise an equity as to the profit arising from disobedience to the Act. *Adair v. New River Company*, 11 Ves. 429.

Where an annuity is given to a relation for life, and has been paid for any length of time without a deduction for Land Tax, it will be presumed to have been so paid by mutual consent, and the payer is not entitled to be relieved. *Nichols v. Leeson*, 3 Atk. 573.

A., in satisfaction of a widow's dower, mortgaged lands on consideration to be paid 20*l.* per annum. This being an annual payment, secured by land, was held liable to answer taxes in proportion as the land paid; but the Court refused to make the annuitant refund in respect to the payments she had received tax free, and for which the party paying omitted to deduct. *Attwood v. Lamprey*, cited *East v. Thornbury*, 3 P. W. 127, n.

For cases where a deduction for taxes is to be made out of an annuity, see *Robinson v. Stephens*, 2 Salk. 616.

(*f*) The Court will grant a summary application against Commissioners of Land Tax to compel a due assessment. *Attorney-General v. Land Tax Commissioners for the Division of Haytor, Devon*, 12 Pr. 647.

(*g*) As to the power of District Commissioners of Land Tax to raise a surplus in excess of the quota, with a view to the redemption eventually of the entire charge on the parish, see the judgment of the Exchequer Division in the case of *Simpkin v. Robinson*, given in the Appendix.

(*h*) The long controversy which had at different times arisen

parishes, and places in England, Wales, and Berwick-upon-Tweed (42 Geo. III. c. 116, s. 180).

The poor-rate valuation is very generally adopted as the basis for assessment to the Land Tax, and may in most cases be regarded as a sufficiently convenient and equitable mode of valuation for the purpose.

All lands, &c., are to be rated and assessed in the places where such lands lie, and not elsewhere (*i*) (38 Geo. III. c. 5, s. 53).

respecting the power alleged to be vested in the District Commissioners to equalise the quotas payable by the several parishes or districts within any division, was finally settled by the Court of Queen's Bench in the case of "*The Queen v. Land Tax Commissioners for the Tower Division*," in which it was decided that the Commissioners have no such power, but that each parish is separately charged with the quota fixed upon it in the year 1798. It is impossible to exaggerate the importance of this carefully-considered judgment, which settled the law once and for all. It is given in full in the Appendix.

(*i*) An exception is made by 4 & 5 Wm. IV. c. 60, s. 2 (subject to sect. 7, T. M. A.), with respect to those lands formerly waste or open, or common fields, which have been, since their inclosure, rated to the Land Tax in other parishes than those in which they lie. It is thereby enacted that all allotments, &c., which previously formed part of such lands, may be assessed in such manner, and in such parish, &c., as they have been since their allotment or inclosure, although they may not lie in the parishes where they are so rated or assessed.

See also the very important recent case of "*The Queen v. Land Tax Commissioners for Morpeth*," which seems to settle the point that where land has been assessed elsewhere than in the parish in which it is situate since the year 1798, that property shall continue to be so assessed. The judgment is given in full in the Appendix.

Attention may also here be called to another recent case, viz., *Cooch v. Walden*, 46 L. J. Ch. 639, where a question arose as to the Act 6 & 7 Wm. IV. c. 115, which contains a clause assimilating

Tenants are to pay the tax, and deduct it out of their rent (*j*), and if any difference should arise between them and their landlords concerning the rate, the Commissioners for putting the Act into execution have power to settle the same as they may think fit (ss. 17 and 18).

Contracts or agreements, however, between landlord and tenant, touching the payment of taxes and assessments, are not to be affected (s. 35) (*k*).

the tenure and quality of lands exchanged and allotted to that of the lands in respect of which the allotment or exchange is made. It was held that the statute does not transfer a liability to Land Tax from one property exchanged to the other.

(*j*) In the case of *Spragg v. Hammond*, 4 Moore, 431, and 2 Brod. & Bing. 59, plaintiff held premises under a lease silent as to Land Tax. Defendant distrained on him for six years' rent, when plaintiff, for the first time, insisted for an allowance of Land Tax. It was held that payments of this kind are to be considered as voluntary, and cannot be recovered back. See also *Andrew v. Hancock*, 1 B. & B. 37; *Saunderson v. Hanson*, 3 C. & P. 314.

(*k*) Land Tax is a "Parliamentary Tax," within the meaning of an agreement to pay rent, "and all taxes, Parliamentary and Parochial." *Manning v. Lunn*, 2 C. & K. 13 (Pollock). Where a tenant verbally agreed "to pay all taxes," it was held that, under this agreement, he was bound to pay the Land Tax, although it was not specifically mentioned. *Amfield v. White*, 1 B. & M. 246.

Where the owner of a house, in consideration of a premium, demised it at one-third of its annual value, and afterwards redeemed the Land Tax, held that he was entitled to receive from the tenant an annual payment equal to two-thirds of the Land Tax redeemed. *Ward v. Const*, 10 B. & C. 634; 5 M. & R. 402.

A lessee covenanted "to pay all parliamentary, parochial, and other taxes, tithes and assessments, then or thereafter to be issuing out of all or any of the demised premises, or chargeable upon the landlords or tenants thereof, for the time being, in respect thereof."

Assessments upon the houses of foreign Ministers are to be paid by the landlord or owner (s. 46).

Held that a rent-charge imposed on the premises, in lieu of the Land Tax, which had been redeemed or purchased by a former tenant of the premises, under 42 Geo. III. c. 116, was a parliamentary tax or assessment within the meaning of the covenant. *Christ's Hospital (Governors) v. Harrild*, 2 Man. & G. 706; 3 Scott, N. R. 126.

Where a landlord covenants to pay the Land Tax, he is only bound to pay that portion of the tax assessed in respect of the rent received by him. *Whitfield v. Brandwood*, 2 Stark. 440; and *Yaw v. Leman*, 1 Wils. 21.

Where a party took part of certain premises, the whole of which were rated at a certain annual value, and the lessor covenanted to pay all taxes then chargeable thereon, and the lessee covenanted to pay all fresh taxes which might thereafter be charged on the premises, or any part thereof, the true construction of these covenants was held to be that the lessor should pay such taxes as were charged on the premises at the time of making the lease, at the then annual value; and that the lessee should pay all fresh taxes, and all such additions to those formerly chargeable, as were occasioned by the improved value of the premises. *Watson v. Atkins*, 3 B. & Ald. 647.

Under a covenant in a building lease by the tenant, to pay all taxes except the Land Tax, the landlord is only to pay the old Land Tax, and not the additional tax occasioned by the improvement of the estate. *Hyde v. Hill*, 3 S. R. 377; *Rex v. Scott*, 3 S. R. 602; and *Smith v. Humble*, 15 C. B. 321.

Where a tenant has paid a tax which his landlord is bound to pay, he may recover the amount by action. *Graham v. Tate*, 1 M. & S. 609.

An assessment levied under an Act of Parliament enabling the owners of land to raise money for repairing a bridge, to the repair of which they were liable *ratione tenuræ*, is not a parliamentary tax charged upon demised premises within the meaning of a covenant in a lease to pay rent "free and clear of and from any Land Tax, and all other taxes and deductions whatsoever, either parliamentary

Every assessment to the Land Tax should be made *upon the several occupiers* of the property chargeable (1).

The 5th section of 38 Geo. III. c. 5, after reciting that many of the manors, messuages, lands, tenements, tithes, hereditaments, and premises liable to assessment to the Land Tax, are subject to the payment of several rent-charges or annuities, and other annual payments issuing out of the same, or to the payment of divers fee farm rents, rents service, or other rents thereupon reserved or

or parochial then already taxed, charged, or imposed, or thereafter to be taxed, charged, or imposed upon the said demised premises, or any part thereof, or upon the said W. G., his heirs, executors, or administrators or assigns in respect thereof, the landlord's property tax or duty only excepted." *Baker v. Greenhill*, 2 Gale & D. 435; 6 Jur. 710.

Where a man had power to make a jointure without any deduction for any charges imposed or to be imposed, parliamentary or otherwise, it does not mean only such as are fixed and certain; but the Land Tax, though fluctuating, is clearly within that power. But a bishop covenanting to pay all charges, ordinary or extraordinary, does not subject himself to the Land Tax, because he cannot bind his successors—otherwise in the case of a common person who can bind his heirs. *Blandford v. Marlborough*, 2 Atk. 542.

(1) In the case of *R. v. Mitcham*, Cald. 276, Lord Mansfield said, "Undoubtedly the rate ought to be charged upon the occupier, for although the landlord is the debtor, the rate is pointed at the occupier; the parish cannot tell who is the landlord, or who has a rent-charge; it is upon the occupier the officer of government takes his remedy; and though the landlord is directed to allow the sum paid, out of the rent, the tenant is to be considered as the person first liable; the parish has nothing to do with transactions between landlord and tenant."

charged, and that consequently the owners of the lands so encumbered do not receive the true yearly value of the same, authorizes such landlords and owners to abate and deduct out of every fee farm rent, or other annual payment, so much of the pound rate assessed upon the said manors, lands, &c., as a like rate for every such fee farm rent, or annual payment respectively, shall, by a just proportion, amount to, so as such fee farm rent, or other annual rent, do amount unto twenty shillings per annum or more.

In the case, however, of fee farm rents, or other chief rents, payable to the Crown, or to any person deriving title from the Crown by purchase, under the Acts 22 & 23 Charles II. cc. 6 and 24, it is enacted (38 Geo. III. c. 5, ss. 30 and 31) that the receivers thereof are to allow to the parties paying the same four shillings in the pound upon such rents, and a proportionate rate for any greater sum than ten shillings, excepting such fee farm rents as were payable before 25th March, 1693, to any college, hospital, or any person exempted by the Act; and provided such deduction does not exceed the sum assessed upon the whole estate, out of which such fee farm rents, &c., may issue (*m*).

Secondly, as to persons and subjects exempt.

The Sovereign, by virtue of royal prerogative, is

(*m*) Owners of land, who have redeemed the Land Tax, may make the deductions, notwithstanding the redemption, and those entitled to the fee farm rents should allow them. (42 Geo. III. c. 116. s. 127.) See also *Moody v. Dean and Chapter of Wells*, 1 H. & N. 40; 25 L. J. Ex. 273; 27 L. T. Ex. 82.

exempted from the operation of all statutes imposing duties on the subject (*n*).

The 25th section of 38 Geo. III. c. 5, declares *exempt*, colleges and halls in either of the two universities of Oxford and Cambridge, and the colleges of Windsor, Eton, Winton, and Westminster, the corporation of the governors of the charity for the relief of poor widows and children of clergymen, and the college of Bromley, and all hospitals in England, Wales, or Berwick-upon-Tweed, for or in respect of the sites of the colleges, halls, or hospitals, or any buildings within the walls or limits of the said colleges (*o*), halls, or hospitals. It also exempts all masters, fellows, readers, officers, &c., of any college or hall, and all masters and ushers of schools, from assessment for any profits or exhibitions, &c., arising or growing due to them in respect of their places or employments in such universities, colleges or schools. The same section further exempts any houses or lands which, on or before the 25th March, 1693, belonged to the sites of any colleges

(*n*) *R. v. Cook*, 5 T. R. 519; see also *Attorney-General v. Hill*, 2 M. & W. 160, as to assessments on Royal Dockyards.

(*o*) The buildings of a college in one of the universities, taken into and made part of the college, between the passing of the first Land Tax Act and the Act that made that tax perpetual (38 Geo. III. c. 60), are exempted from the tax, although chargeable therewith previous to their so forming part of the college. But where a college, after the passing of the first Land Tax Act, purchased land of a parish under a private Act of Parliament, which provided that the college should pay all taxes which the premises then were or should thereafter be subject to, it was held that the land was not exempted from Land Tax. *All Souls College, Oxford v. Costar and another*, H. T. 1804; C. P. 3 B. & P. 635.

or halls in England, Wales, or Berwick-upon-Tweed, or to Christ's Hospital, St. Bartholomew's, Bridewell, St. Thomas's, and Bethlehem Hospitals, in the city of London or borough of Southwark, or any of them (*p*), or to the said corporation of the governors of the charity for the relief of poor widows and children of clergymen, or to the college of Bromley and any other hospital or almshouse, for or in respect only of any rents or revenues which, on or before the 25th March, 1693, were payable to the said hospitals or almshouses, to be disbursed for the

(*p*) In *Harrison v. Bulcock*, 1 H. Blac. 68, which was an action in the Common Pleas, it was determined that a house within the limits of an hospital, appropriated to an officer of the hospital for the time being, is not assessable to the Land Tax. In this case, the premises on which the assessment was made did not form part of the old site of the hospital, and they had been assessed to the Land Tax before they were taken into the hospital.

It has been held that the exemption is not applicable to the sites of hospitals which have become such since the Land Tax was made perpetual by 38 Geo. III. c. 60. *Lord Colchester v. Kewney*, 2 Law Rep. Ex. 253, in error; 36 L. J. Ex. 172; 16 L. T. (N. S.) Ex. 463; and, *è converso*, see the case of *Cox v. Rabbits*, where the House of Lords upheld the decision of the Court of Appeal (reversing the decision of the Court of Queen's Bench), that the exemption of the sites of hospitals in 38 Geo. III. c. 5, from assessment to the Land Tax, is an exemption impressed upon the land itself, and remains unaffected by the removal of the hospital to another site, and the application of the land to other uses. The judgments in these two cases are given in full in the Appendix. The justice of these decisions, as well as that in the *Morpeth* case (page 24), is apparent when it is remembered that the quotas payable in each parish were fixed in amount, subject to redemption, in the year 1798, and therefore the taxpayers in any parish are not to be placed in any better or worse position by any subsequent change in the incidence of property within such parish.

immediate use and relief of the poor of the said hospitals, &c., only.

But all houses and lands held by lease or grant from the said corporation, or of any of the said hospitals or almshouses, are liable to be assessed for so much as they are yearly worth, over and above the rents reserved and payable to such corporation, &c., to be disbursed for the immediate relief of the poor of such corporation, &c. (s. 26).

The District Commissioners of Land Tax are to determine how far lands, &c., belonging to hospitals, &c., not exempted by name, are liable to assessment (s. 28).

All lands, &c., belonging to any hospital, or settled to any charitable or pious use, which were assessed in the fourth year of William and Mary, are likewise chargeable, all other lands, &c., then belonging to such hospitals, &c., not then assessed, being exempt (s. 29).

The tenants of any houses and lands belonging to the said colleges, halls, hospitals, &c., who, by their leases or agreements, are bound to pay rates and taxes, are also liable to assessment (s. 27).

No poor person shall be chargeable whose lands, tenements, or hereditaments, are not of the full yearly value of 20s. in the whole (s. 80).

Tolls or duties on turnpikes are not chargeable (s. 122).

In addition to the above exemptions thus distinctly provided for, there are the following, arising both incidentally and directly out of the redemption Acts:—

. Allotments, under Inclosure Acts (*g*), are likewise not chargeable when made in respect of lands or common rights, &c. belonging to hospital lands, &c. coming within the exemptions contemplated by the 25th section of 38 Geo. III. c. 5.

Upon the partition of any lands, &c. held by co-parceners or joint-tenants, &c. the allotments made to such of the coparceners, &c. who have redeemed their proportion of Land Tax, are exonerated from assessment (42 Geo. III. c. 116, s. 39).

By the Act 53 Geo. III. c. 123, s. 38, tithes and other hereditaments belonging to any livings, the Land Tax whereof had been redeemed previous to the passing of that Act, are discharged from liability to assessment, although not rated to the Land Tax at the time of redemption; and all tithes and hereditaments sold or conveyed by any body politic or corporate, or company, or any feoffees or trustees

(*g*) With regard to allotments under Inclosure Acts, see the case of *Boehm v. Wood*, 1 T. & R. 334, where it was held by the Master of the Rolls, that when lands are allotted under an Inclosure Act in respect of rights appurtenant to other lands, of which the Land Tax has been redeemed, the Land Tax does not attach upon the allotment.

See also 4 & 5 Wm. IV. c. 60, s. 2, as to which a reference is to be made to the T. M. A., under sect. 7.

Attention is also called to the case of *Hodgson* and another *v.* *Pearson*, the judgment in which is given at length in the Appendix, where the Court of Common Pleas held, that when a manor has once been charged with Land Tax, and the tax once redeemed, no after enclosure of the waste lands will render the manor liable to re-assessment.

for charitable or other public purposes, for redeeming Land Tax on other hereditaments, are likewise declared free from assessment, though not rated to the Land Tax at the time of such sale or conveyance thereof.

“EXONERATION OF SMALL LIVINGS.”

By the Acts 46 Geo. III. c. 133, 49 Geo. III. c. 67, 50 Geo. III. c. 58, and 53 Geo. III. c. 123, powers were given to Commissioners, appointed under the Great Seal, to direct the exoneration and discharge of the Land Tax charged upon the lands, tenements, and other hereditaments belonging to any livings, or other ecclesiastical benefices and charitable institutions, the whole annual income whereof did not exceed 150*l.*, without payment of any consideration.

It was enacted by 53 Geo. III. c. 123, s. 38, that all messuages, lands, tithes, and other hereditaments belonging to the several livings, &c. which had been or were intended to be exonerated from Land Tax, under the powers of the above Acts, should be absolutely discharged and exonerated from Land Tax from the periods of their exoneration under either of those Acts and from all future assessments to the Land Tax, notwithstanding certain portions or parts of the tithes, or other hereditaments belonging to such livings were not, at the respective periods of exoneration, rated to the Land Tax.

These powers of exonerating small livings, &c. were renewed and enlarged by the 54 Geo. III. c. 173, and

57 Geo. III. c. 100 (*r*), the last of these series of Acts; and the Commissioners for executing such Acts might exonerate the hereditaments belonging to such livings, &c. not rated to the Land Tax, from liability to assessment; and all the hereditaments belonging to any living so exonerated are thereby declared free from any future assessment, although any of them, or any parts thereof, were omitted to be rated to the Land Tax at the time of exoneration (57 Geo. III. c. 100, s. 4). It will be seen on reference to this Act, that the powers of these Commissioners were to cease in 1820. These group of special statutes and the powers they conferred having therefore long since ceased to exist, it is of course too late now to claim exemption in respect of a living below 150*l.*, unless it was actually exonerated by these special body of Commissioners while their powers were in existence (see Table on p. 91). Allotments made under Inclosure Acts, in respect of lands, &c. belonging to livings exonerated under the powers of the above recited Acts, are also not assessable to Land Tax.

OFFICES AND PENSIONS.

The duties on personal estates were repealed in 1833, by the 3 Wm. IV. c. 12, and the duties of one shilling

(*r*) Where any tenant or lessee at rack rent, for any term of years, or at will, of any lands, tithes, or other hereditaments belonging to any living, or other ecclesiastical benefice or charitable institution, which has been exonerated from Land Tax under the provisions of the above enumerated Acts, was bound by agreement to pay the Land Tax, the amount of the Land Tax so exonerated is to be considered as rent reserved during the continuance of the lease or demise (57 Geo. III. c. 100, s. 9.)

and of sixpence formerly chargeable on certain offices and employments of profit, and annuities, pensions, and stipends, and also the duties on offices and pensions, formerly assessable by the Commissioners of Land Tax, were repealed by 39 Vict. c. 16, s. 12.

By 40 Vict. c. 10, the aforesaid repeal of one shilling and of sixpence only extends to cases where they are assessed by Commissioners of Land Tax.

PART III.

COMMISSIONERS.

THE Land Tax is assessed under the exclusive control and direction of local Commissioners, who were formerly appointed for the purpose by special Acts of Parliament, whenever occasion requires, either that an increase be made to the existing number, or that vacancies be supplied. These Acts were known as the "Names Acts."

The last of these Acts (the 32 & 33 Vict. c. 64) was passed in August, 1869. An alteration was effected by this Act in the mode previously observed of appointing such Commissioners. In lieu of the name of each newly-appointed person being inserted in the Act itself, it was provided that the persons named in a schedule signed and deposited with the Clerk of the House of Commons, should be empowered to act as Commissioners (being duly qualified) as fully and effectually as if they had been named in the therein recited Act of the 7 & 8 Geo. III. c. 75, the printing of the schedule in the "London Gazette" being declared sufficient evidence thereof for all purposes. No person is qualified to act as Commissioner of Land Tax for any county in England or Wales (the counties of Merioneth, Cardigan, Carmarthen, Glamorgan, Montgomery, Pembroke, Radnor and Monmouth excepted), or for any of the ridings of the county of York, unless he be possessed of

a freehold, copyhold, or leasehold estate, of the clear yearly value of 100*l.*, or be heir apparent of a like estate of the yearly value of 300*l.*, one moiety whereof is situate in the county or riding for which he is appointed Commissioner (38 Geo. III. c. 48, s. 3). A person may so act for the counties of Anglesea and Carnarvon if possessed of an estate of 60*l.* per annum.

The qualification to act as Commissioner for any city, borough, cinque port, or town corporate (except those for which the qualification is particularly specified in the 38 Geo. III. c. 5) (*a*), is the possession of a freehold, copyhold, or leasehold estate, of the clear yearly value of 40*l.*, or of personal estate to the amount of 1,000*l.*; and the person to be elected Commissioner must be an inhabitant of such city or borough, &c. (38 Geo. III. c. 48, s. 2).

No Commissioner can act without taking the oaths appointed by the Acts 1 Geo. I. and 6 Geo. III. (the oaths of allegiance and supremacy), and without subscribing, if required, an oath, specifying his property qualifications (38 Geo. III. c. 5, s. 49) (*b*).

Commissioners for cities, boroughs, &c., must in all cases take and subscribe the oath of qualification before acting (38 Geo. III. c. 48, s. 1) (*c*).

(*a*) For the city of London and liberty of St. Martin's-le-Grand an estate of 20*l.* per annum is required; and for the city and liberty of Westminster a like estate of 50*l.* (38 Geo. III. c. 5, ss. 93, 94.)

(*b*) See 31 & 32 Vict. c. 72—Substitution of Declaration for Oaths.

(*c*) All persons acting as justices of the peace for any county,

Any person acting without being duly qualified is liable to a penalty of 50*l.* for each offence (38 Geo. III. c. 5, s. 96, and 38 Geo. III. c. 48, s. 1) (*d*). Upon the passing of any Land Tax Commissioners' Name Act, a person who qualified under any former Act is not required again to sign his qualification under such new Act, although he may be named therein (*e*).

shire, riding, division, or district, within England and Wales, and possessing the qualifications above recited, are empowered to act as Commissioners of Land Tax (7 & 8 Geo. IV. c. 75, s. 1).

No person who has held the office of inspector or surveyor of taxes is capable of acting as a Commissioner of Land Tax (7 & 8 Geo. IV. c. 75, s. 6). Nor can a collector of any aid granted to the Crown so act (38 Geo. III. c. 5, s. 92).

(*d*) An opinion appears to prevail that it was decided, in *Williams v. Steward*, that the Commissioners for putting the Land Tax Act into execution are merely the servants of the Crown for the purpose of the Act, and have no personal responsibility; that there is no estate vested in them by the Act, nor any interest in the property which is the subject of it; and that no remedy, therefore, lies against them but in the Queen's Bench, by mandamus (and which is doubtful), or by suit in the Exchequer (*Williams v. Steward*, 3 Mer. Rep. 494). It may be observed that the Commissioners respecting whom such decision was pronounced in the above case were Commissioners for putting into execution the Acts relating to the *redemption* of the Land Tax; a perfectly distinct body from the Commissioners appointed to superintend its assessment.

(*e*) By sect. 5 of the T. M. A., two Land Tax Commissioners form a quorum.

PART IV.

ASSESSMENT(a).

By 38 Geo. III. c. 5, ss. 7 and 8, the Commissioners are required to meet together at the most usual and common place of meeting within the counties, divisions, towns, and places, for which they are appointed to act, on or before the 30th April in each year, and afterwards as often as may be necessary.

At their preliminary meeting (first appointing a fit person to be their clerk) (b), they are to issue their several or joint precepts to such inhabitants as they may think most convenient to be precentors and assessors, of whom they should appoint at least two (c), and should re-

(a) See footnote to p. 20.

(b) Sect. 41, T. M. A.

(c) If any person so appointed assessor refuses to serve, or makes default at the time appointed for his appearance, or is guilty of any fraud or abuse in executing the same, he is liable to a penalty not exceeding 40*l*. (38 Geo. III. c. 5, s. 19). This penalty is recoverable before the District Commissioners by information and summons. (See also as to collector, p. 48.) But no inhabitant of a city, borough, or town corporate, can be compelled to act as assessor beyond the limits of such city, &c. (sect. 45).

It has been held that the acts of a person duly appointed as assessor and collector were valid, although he was not duly qualified by inhabitancy. *Company of Proprietors of Waterloo Bridge v. Cull*, quoted page 22.

In places extra-parochial, and parishes where two able and sufficient persons cannot be found, the Commissioners may appoint persons living near such places to act (sect. 47).

quire them to bring in their assessments on a certain day (c).

The Commissioners should also direct the assessors at the same time, to return the names of two persons to act as collectors, for whose due payment of the sums collected, the parish or place in which they act is to be answerable. The Commissioners are also to tax and assess every assessor for the duties to which he may be liable under the Act (38 Geo. III. c. 5, s. 44). The assessors are required to deliver, at the time and place prefixed for their appearance, one copy of their respective assessments, subscribed by them (d), to the Commissioners, who thereupon are to sign and seal two duplicates of the same, and cause one of them to be delivered to the persons whom they appoint to be collectors, furnishing them at the same time with a warrant for collecting the several sums therein assessed. The Commissioners are then to give to the collectors notice of the times and places when and where they will be ready to hear and determine the appeals of persons who may think themselves overrated by the assessors; which appointed days are to be at least thirty days from the time of delivering the duplicates to the collectors. The collectors are required, within ten days after receiving such notice, to

(c) The whole of the Land Tax charged upon any place must be inserted in the certificate of assessment (notwithstanding the discharge of any portion thereof), so long as any part remains payable (42 Geo. III. c. 116, s. 180). When, however, in any place separately assessed, the whole of the Land Tax has been exonerated, the assessment is to cease (*ib.* s. 182).

(d) It is indispensable to the validity of the assessment that both assessors should sign it.

give public notice thereof in writing, to be affixed upon or near the door of the parish church or chapel of ease on the Lord's day. They are also to inform any person intending to appeal, that the Act requires he should acquaint the assessors of his intention, in order that if they think proper, they may attend to justify their assessment (e). The collectors are further required to permit any person who may think himself overrated, his steward, or other proper representative, to inspect the duplicate of assessment, at all seasonable hours of the day, without demanding any fee or reward (38 Geo. III. c. 5, ss. 7 and 8).

Where any assessment is brought in in an imperfect state, the Commissioners may require the assessors to amend it; but when once an assessment has been signed and allowed by the Commissioners, they have no power to quash it, however unequal it may subsequently prove to be; and any property omitted to be assessed cannot be brought into charge until the ensuing year, except upon the appeal of a person who proves that he has been overrated, in which case the property left out may be added to the assessment.

No appeal can be heard until the assessment has been signed and sealed by the Commissioners (f).

(e) It will be observed that the Act is not *imperative* with respect to the attendance of the assessors in order to support their assessment.

(f) By sect. 57 of the T. M. A., it is provided that "no barrister, solicitor, or attorney, or any person practising the law, shall be allowed to plead before the District Commissioners on appeal for the appellant or officers, either *viva voce* or by writing." This provision applies only to the Income Tax, and does not apply in

Upon any person proving, to the satisfaction of the Commissioners, that the assessment made upon him exceeds the equal pound rate which ought to be charged upon him, the Commissioners, or the major part of them, may reduce his assessment so much as exceeds such equal pound rate; and they are thereupon required to re-assess the amount of such reduction upon the parish, or upon such persons therein, as may appear to be undercharged (s. 84).

Appeals once heard and determined by the Commissioners, or by the major part of them present on the days appointed for hearing appeals, are to be final, without further appeal upon any pretence whatever (s. 8).

All questions and differences touching any assessments are to be heard and finally determined by the Commissioners, upon complaint by the party aggrieved, without further trouble or suit at law in any Court whatsoever (s. 23) (g).

any case to the Land Tax, nor to proceedings for Penalties before District Commissioners of Income Tax.

(g) Upon any doubt or dispute arising as to the division, parish, or place, where lands, &c., are legally liable to be assessed, power is given by 1 & 2 Vict. c. 58, to the Court of Exchequer (now the Queen's Bench Division of the High Court of Justice), upon application being made by or on behalf of the owner or occupier of such lands, &c., to call upon the Commissioners who made the assessments to appear and maintain, or relinquish them, so far as they relate to the lands, &c., in dispute.

The Court may stay all proceedings instituted against the party assessed, for compelling payment, or order the amount claimed to be paid into Court, to abide the determination of the dispute; and such Court may also award to the applicant the costs of application, to be defrayed by assessment on the lands, &c., chargeable to Land

Where a controversy arises respecting any assessment, or the payment thereof, which may concern any of the Commissioners appointed for the purposes of the Act, the Commissioners so concerned in the controversy, in their own right, or in the right of any person for whom they act as agents, can have no voice in the debate, but must withdraw, under a penalty not exceeding 20*l.*, until it be determined by the rest of the Commissioners (s. 23).

The property of public books and papers relating to the Land Tax is vested in the Commissioners, and they are to remain as records in their custody, or in that of their clerk for the time being (s. 15); and persons having them in their possession are to deliver them up within one calendar month after receiving from the Commissioners notice in writing to that effect, under a penalty of 50*l.* (s. 16).

By sect. 36 of the T. M. A., the Commissioners of Land Tax, acting for any county, shire, or riding, are

Tax in the division, parish, or place, with reference to which the doubt or dispute arose.

An application was made to the old Court of Exchequer, under the above Act, for a rule calling upon the Commissioners of Land Tax for the hundred of Norman Cross, in the county of Huntingdon, to appear and maintain, or relinquish, their assessments to the Land Tax in the parish of Glatton, made upon the applicant, when a question arose whether the powers given by the Act refer to cases where owners or occupiers of lands are twice rated for the same lands, or are restricted to cases in which distinct assessments are made upon the same property by separate and conflicting bodies of Commissioners, and it was held that the Act applies only to the latter, the remedy in the former case being given by 38 Geo. III. c. 5, s. 23. *In re Glatton Land Tax*, 6 M. & W. 689.

empowered, at any general meeting, if and as they see fit, to transfer the jurisdiction of any parish, township, hamlet, &c., from one hundred or division to any other in the same county, together with the quotas payable by them respectively at the time of such transfer; or to create any new division.

The proposal of such transfer, or creation of a new division, must be certified to the Commissioners of Inland Revenue, and is subject to the approval of the Lords of the Treasury, which approval, when given, is to be certified to the District Commissioners by the Commissioners of Inland Revenue, who will at the same time also certify the amount of the quotas to be assessed and levied on the parishes, &c., to be so transferred.

The Act does not, however, authorize the alteration of the limits or jurisdiction of any of the cities, boroughs, cinque ports, towns, and places, for which separate and distinct quotas of Land Tax are fixed by the 38 Geo. III. c. 5.

The Act 5 & 6 Vict. c. 37, after directing (sect. 3) (*h*) that certain parishes, or places or parts thereof, which are detached from the main body of the several counties to which they respectively belong (and which parishes, &c., are enumerated in the schedule of such Act), should be transferred to the jurisdiction of the Commissioners of Land Tax for the counties in or near which they are locally situate, gives power to the Commissioners of Inland Revenue to transfer the jurisdiction over similar detached

(*h*) By sect. 7 of the T. M. A., a reference is here to be made to that Act.

parishes, &c., not specifically provided for by the Act, and also enables them to form new divisions out of such parishes, &c., as they may think fit. In such cases the Commissioners who hitherto charged and assessed the parish or place to be transferred are required to certify the amount of the Land Tax assessed on such parish, or place or part thereof, in the year ending on the 25th March preceding the proposed transfer; and the Commissioners under whose jurisdiction the parish, &c., is transferred are to cause the same amount of Land Tax so certified to be yearly charged, assessed, and levied upon such parish, or place or part thereof, as aforesaid, subject to redemption under the provisions of the Acts passed in that behalf (s. 6).

By sect. 37 of the T. M. A., two or more parishes, townships, tithings, hamlets, or places (extra-parochial or otherwise) may be united for assessment and collection, and considered as one parish or place; but such union does not involve any alteration or fusion of the quotas of Land Tax on such parishes (*i*).

(*i*) If it be subsequently found that such "union" is inconvenient, it may be dissolved by the Treasury at the request of the District Commissioners.

By the 41 Vict. c. 15, s. 16, the assessment and collection of Land Tax in Serjeants' Inn are transferred to the Commissioners for the City of London.

PART V.

COLLECTION.

By the T. M. A., s. 82, the Land Tax is payable on or before the 1st of January in every year.

The collectors are required to demand the sums set forth in the duplicate of assessment delivered to them, from the several parties named therein, if they can be found at the place of their last abode; or upon the premises charged with the assessment (38 Geo. III. c. 5, s. 8). Upon refusal or neglect of payment, the collectors are authorized to levy the sums assessed, by distress and sale of the goods and chattels of the defaulters (s. 17), whether upon the premises or elsewhere within the jurisdiction of the Commissioners who allowed the assessment and signed the collector's warrant (a).

(a) Where a collector, having made a demand for Land Tax upon the premises charged, at a time when the party liable to pay was absent from home, and not upon the party himself, distrained immediately after making such demand, the distress was held to be unlawful; for that, before he distrained, he was bound to allow a reasonable time to elapse after making the demand, in order that the party liable to pay the tax might have an opportunity of complying with the demand. *Gibbs v. Stead*, 2 B. & C. 528; 2 M. & R. 547.

The collectors are also empowered to distrain upon any goods found on the premises assessed, to whomsoever they may belong; and after obtaining from the Commissioners a special warrant for the purpose, may break open, in the day-time, any house or any chest, trunk, box, or any thing found on the premises, containing any goods upon which distress can be made, calling to their assistance the constable, tithing-man, or headborough of the place (s. 17) (b).

If any lands or premises assessed be unoccupied, and no distress can be found thereon, the deficiency must be made good by re-assessment on the parish, &c. (s. 18). In such cases, however, the collectors may, at any time after, enter and distrain, when any distress can be found, and distribute the money thus raised, proportionably to the parties who contributed to the tax upon such unoccupied lands (s. 40).

Where any woodlands are assessed, and no distress can be had, the collectors, under warrant given by the Commissioners for such purpose, may at seasonable times in the year, cut and sell so much of the wood growing thereon (timber trees excepted) (c) as will pay the amount of as-

(b) A collector of Land Tax cannot break open a house for the purpose of taking such distress without the assistance of such constable, &c.: *Foss v. Racine*, 4 M. & W. 419; 1 H. & H. 403; 8 C. & P. 699.

(c) Oak, ash, and elm are timber trees, after the age of twenty-one years, throughout the realm: Co. Lit. 53 a; Dy. 656 (see 8 T. R. 145); and beech, willow, hornbeam, &c., where they are scarce, may be accounted timber by the custom of the country: Co. Lit. 53 a; R. Moor. 812.

In the county of York birch-trees are considered timber—*vide*

assessment due, and the charges occasioned by the non-payment thereof (s. 41).

When the duty in arrear is for tithes, tolls, profits of markets, fairs, fisheries, or other annual profits not distrainable, the Commissioners may also empower the collectors to seize and sell so much of the tithes, tolls, &c., wheresoever they can be found, as will cover the amount in arrear and expenses incurred (s. 42).

Where a collector advances and pays over to the proper officer a portion of his own money on account of Land Tax assessed on any other person, he may, at any time within six months after such payment, collect and levy the same in the usual course. (T. M. A., s. 87).

By the same Act (s. 20), the District Commissioners have power to defend any action brought against a collector for anything done in pursuance of the Land Tax Acts, where the collector has been appointed by them.

In the event of any dereliction of duty on the part of a collector, the Commissioners have power to impose penalties (38 Geo. III. c. 5, s. 19; and 53 Geo. III. c. 142, s. 7) (e).

In many districts owing to the increase of buildings or rise in the value of property, it has been found impossible,

Lady Cumberland's case, Moore, 813—and in Hampshire willows are timber. *Layfield v. Cooper*, 1 Wood, 330; *Gruffly v. Pindar*, Hob. 219.

(e) It is the practice for these penalties to be recovered in the usual way before the District Commissioners, viz., by information and summons. See also p. 50, and as to assessor, p. 39.

The office of collector is not now, under certain conditions, a compulsory one. (T. M. A., s. 73 (3).)

in assessing the amount of the quota in charge thereon, to apportion the pound rate among the inhabitants without exceeding such quota in the aggregate of the assessments.

A few words are here necessary with regard to "Surplus Land Tax."

In order, as much as possible, to guard against the pound rate being maintained unnecessarily high (*f*), and to provide for the application of the surplus for the benefit of the parish, &c., where it may arise, it is enacted by sect. 114 of the T. M. A. that, in any parish or place where the assessment shall exceed by 5*l.* the amount of the quota payable by such parish, &c., the District Commissioners shall, on or before the 24th December following the year of assessment (*g*), cause to be prepared and transmitted to the Commissioners of Inland Revenue a certificate under their hands, containing the amount of the quota in charge upon the parish, the actual amount of the assessment delivered to the collectors, together with the amount of the sum by which the assessment exceeds the quota, and the amount of such excess (if any) which has been collected previously to the transmission of the certificate, in order that the excess so arising upon the assessment may be paid to the Receiver-General of Inland Revenue, and by him into the Bank of England to be applied in the redemption of Land Tax chargeable upon the parish wherein the excess arises.

It may be here observed, with regard to Collectors of

(*f*) But see case of *Simpkin v. Robinson*, in Appendix.

(*g*) The year of assessment is from 26th March to 25th March following.

Land Tax generally, that most of the penalties they may incur are recoverable before their own District Commissioners (T. M. A., s. 121 (1, 2, 3, 4)) ; but there is now one important exception (sub-sect. 5) to this observation with regard to a Collector who collects Land Tax not charged, or more than charged, in his duplicate of assessment, or who does not pay over all the Land Tax he collects: the penalty of 100% for every such offence is recoverable in the High Court.

PART VI.

AS TO THE RELIEF FROM DOUBLE LAND TAX CHARGED
ON ESTATES NOW OR FORMERLY HELD BY ROMAN
CATHOLICS.

IN the year 1692 was passed the Act 4 Wm. & Mary, c. 1, intituled "An Act for granting to their Majesties an aid of four shillings in the pound, for one year, for carrying on a vigorous war with France." A new valuation of the lands throughout the kingdom was at the same time directed to be made, in order that they should be assessed at their full value, and to provide a basis for future taxation.

The 37th section of this Act (*a*) directed that the manors, lands, &c., of every Papist, or reputed Papist, of the age of sixteen years, or upwards, who refused to take the oaths required by the 1st Wm. & Mary, sess. 1, c. 8 (*b*), should be charged with, and assessed in, double the pound rate granted by the Act; *viz.*, a pound rate of eight shillings in the pound for every twenty shillings of the then annual value thereof. Five Acts succeeded, each containing a similar clause for doubly assessing Papists, of sixteen years or upwards. Then followed the Act 9 & 10

(*a*) In the Parliamentary copies of the Act it is the 34th section.

(*b*) "An Act for the abrogating of the Oaths of Supremacy and Allegiance, and appointing other Oaths."

Wm. III. c. 10, differing from the former Acts, in directing that a fixed sum, *viz.*, £1,484,015 : 1s. 11 $\frac{3}{4}$ d. should be raised, by a three-shilling pound rate, for the service of the year, and that such amount should be levied upon counties, &c., in the proportions therein specified. The next Act, the 10 & 11 Wm. III. c. 9, directed the like amount to be raised, but required that the quotas set against each county, &c., as therein mentioned (s. 6), should be levied according to the proportions which were assessed upon the same counties and districts in the fourth year of William and Mary. The clause for doubly rating Papists who refused to take the oaths was also inserted in this Act.

From this time each annual Land Tax Act directed a certain quota to be raised (naming the pound rate), and that the proportions levied in each district by 4 Wm. & Mary should be adhered to. Owing to these annual assessments being governed by the Act of 1692 (4 Wm. & Mary, c. 1), it was soon found necessary to give legislative relief to Protestants becoming possessed of estates previously held by Roman Catholics; the new possessors not being, of course, liable to the penal tax.

Such relief was accordingly provided for at an early part of the reign of Queen Anne, by the introduction into the annual Land Tax Acts of clauses which directed that the double rate should be taken off estates coming into the hands of Protestants, and cast upon the parish at large; and where the assessment upon the parish became, in consequence, increased beyond the rate granted by the Act of the year, power was given to the then Court of Exchequer,

upon production of certificates from the District Commissioners, and evidence of the over-rate, to discharge the *excess* from the duplicate, and reduce the quota by such amount.

Now, although this mode of relief might have proved effective within a period not far removed from the passing of the 4th Wm. & Mary, when the valuation thereby directed was made (for, assuming it to have been a full valuation, nearly the whole of such double rate would then have been in excess of the parochial quota); yet, by reason of the gradual diminution in the value of money, and the great and progressive increase in the annual value of land, and from the circumstance of the value by which relief was to be estimated being always the value of the day at which the relief was sought, the beneficial operation of the Act became, in course of time, sensibly lessened, until it ceased to afford the parish any relief whatever.

In the year 1791 was passed the 31 Geo. III. c. 32, repealing certain penal enactments affecting Roman Catholics, when a committee of Roman Catholic noblemen, and others, communicated with Mr. Pitt, with the view of obtaining the remission of the double Land Tax charged on the estates of Romanists. Upon this application being entertained, the mode resorted to for affording the desired relief was the omission in the annual Land Tax Acts (that of 1794, the 34 Geo. III. c. 8, being the first) of the clause imposing the double charge upon Roman Catholics, and the introduction of other clauses, declaring all lands thenceforth liable to a single assessment only, and rendering of universal application, for the

relief of the parishes where estates doubly charged existed, the before-mentioned provision hitherto restricted to cases of Protestants succeeding to lands of Roman Catholics (*vide* 34 Geo. III. c. 8, ss. 82, 113 and 114).

It is worthy of observation that the causes which, as before shown, had already virtually nullified this latter remedial measure, were, upon this occasion, so entirely overlooked as to allow of such an enactment being still considered available for the attainment of the desired object.

All lands in a district being at this time indiscriminately liable to an equal pound rate assessment, certain Roman Catholic proprietors obtained relief from the double tax, under the general powers of appeal from unequal assessments, which were contained in each Act, from the first imposition of the Land Tax; and the relief thus given was distributed over the lands of the other landowners of the district. In cases, however, where the person doubly rated possessed the greater part of the land in a parish, the larger portion of the tax was re-distributed upon himself.

Consequently, this mode of relief was ineffective, as regarded the Roman Catholic proprietor, and unjust towards the Protestant owner, who thereby was rendered chargeable with a burthen the Legislature never intended him to bear.

This restricted source of relief became shortly afterwards even more circumscribed by the operation of the Land Tax Redemption Act (38 Geo. III. c. 60), passed in the year 1798, as upon the exoneration of any lands

in a parish by redemption of the tax charged thereon, the area for the distribution of any relief which might be extended to holders of estates doubly assessed was proportionately reduced. The hardship also which resulted to the Protestant landowner, who either neglected or was unable to redeem his Land Tax, is at once apparent.

No steps appear, however, to have been taken to provide a more equitable form of relief until the year 1828, when a Select Committee of the House of Commons was appointed to inquire into the alleged grievances of persons doubly rated to the Land Tax, in consequence of the double charge formerly imposed on Roman Catholics; and the passing (in September, 1831) of the Act 1 & 2 Wm. IV. c. 21, was the result of their investigation and report.

This Act, after reciting that, by reason of the provisions of the Act for making the Land Tax perpetual, subject to annual assessment in respect of the proportions unredeemed, doubts had arisen whether the power of relief from the double rate of Land Tax upon estates of Roman Catholics, given by the Acts in and prior to 1798, by application to the (then) Court of Exchequer, was then in force, and that difficulties had also arisen with regard to the manner and form of obtaining relief, by reason of the great variation and increase in the annual value of lands, and of the proportions of Land Tax which had been redeemed or exonerated from assessment, enacts that in all cases of assessment for any year commencing, where any manors, lands, tenements, &c., which shall have a proportion to raise by virtue of the 38 Geo. III. c. 5, are charged with a double rate, by the valuation and assessment of the

same manors, lands, &c., for the former aid of four shillings in the pound, made in pursuance of the Act 4 Wm. & Mary, c. 1, and such estates have not, under the powers of any of the subsequent Acts, been made liable to a single assessment only—it shall be lawful for the Commissioners of the Land Tax for the respective counties, districts, or divisions, where such lands, &c., are situate, upon complaint thereof before them being first made by or on behalf of the owner or occupier of the same, to examine into the matter of such complaint, and after satisfying themselves of the truth thereof (*c*), to certify, in writing

(*c*) For which purpose, the Act directs them to inspect the necessary assessments, and to require the production of an office copy of the registry of the estate with the Clerk of the Peace of the county where situate; which registry was made in pursuance of the Act 1 Geo. I. sess. 2, c. 55, intituled “An Act to oblige Papists to register their names and real estates.”

It may be observed, that although the circumstance of the registry with the Clerk of the Peace of an estate as the property of a Roman Catholic affords a strong presumption that it was doubly assessed (especially if it appears to have been rated higher than the estates adjoining it), such registry would not of itself suffice to justify the District Commissioners in granting a certificate under the Act.

As upon the omission in the annual Tax Acts of the penal clause, relief (however slight in many instances) was afforded to some proprietors, by a distribution of part of their double tax upon the rest of the parish, and as the estates of such persons are, in consequence, excluded from the benefit of the 1 & 2 Wm. IV. c. 21, it is required by such Act that the amount in charge upon the estate, at the time of claiming relief, should correspond with that borne by it before the repeal, in 1791 (by 31 Geo. III. c. 32), of the Act requiring the registry of the estates of Roman Catholics, unless, where a variation has taken place, the difference can be shown not to arise from any relief given.

under their hands, to the Lords of the Treasury, the names of such owner or occupier, and the amount of the over-charge upon him, which certificate, attested by their clerk, is to be transmitted to the Commissioners for the Affairs of Taxes (d), and must be in the following form :—

We, the undersigned, being the Commissioners of Land Tax for the of , in the Hundred of , in the county of , do hereby certify that we have heard the complaint of , touching the assessment of the complainant's estate to double Land Tax, in the said ; and that the said assessment, a true copy whereof is hereunto annexed, doth exceed, by the sum of , the just proportion which would have been charged on the said estate, in case the said estate had not been the property of a person who refused to take the oaths required by an Act, passed in the fourth year of the reign of their Majesties King William and Queen Mary, intituled "An Act for granting to their Majesties an Aid of Four Shillings in the Pound, for one year, for carrying on a vigorous war with France."

(Here add a true copy of the assessment.)

The Lords of the Treasury, or the Commissioners of Taxes (d) under their authority, upon being satisfied of the accuracy of such certificate, may empower the Commissioners of the district to which such certificate relates, "to discharge the sum, or sums, of money so certified, or such part thereof as shall appear to be double Land Tax, from all future assessments." It is, however, provided that the relief granted by the Act shall not extend to double Land

(d) Now Commissioners of Inland Revenue.

Tax charged on any manors, lands, &c., purchased by any person for a valuable consideration, subject to such double Land Tax, as a charge or incumbrance on such estate, or any part thereof; nor can any person so deriving an estate claim the benefit of the Act. It is also provided that no discharge of the double Land Tax for any year shall be granted, unless the above-mentioned certificate of the District Commissioners be transmitted to the Commissioners for the Affairs of Taxes (e) on or before the 10th of October in such year.

A power of appeal to the Court of Exchequer (f) against the decision either of the District Commissioners or of the Commissioners of the Treasury, is likewise provided (sect. 2), the appellant first giving ten days' notice at least of his intention so to do to the Commissioners of the district, if he be dissatisfied with their decision, or to the Commissioners for the Affairs of Taxes (e), or their Solicitor, in any case where the intended application to the Court relates to the determination of the Lords of the Treasury.

(e) Now Commissioners of Inland Revenue.

(f) Now Queen's Bench Division of the High Court.

PART VII.

REDEMPTION GENERALLY.

BEFORE considering the interests acquired under these Acts, it will be desirable to take a brief survey of the measure for the redemption of the Land Tax, and trace the different phases through which it has passed.

Introduced by Mr. Pitt in the year 1798, its essential principle was to diminish the pressure of the public debt in the market, by causing the absorption of a large amount of stock, thereby increasing the value or price of what remained, and consequently enabling the Government to borrow on more advantageous terms. In the preamble of the Redemption Act, the scheme is declared to be intended "materially to conduce to the strengthening and supporting the public credit, and augmenting the national resources." This was to be effected by employing the money required for the redemption of the tax, in the purchase of 3 per Cent. Consolidated or Reduced Bank Annuities, to be transferred to the Commissioners for the Reduction of the National Debt. As the Land Tax when levied and paid into the Exchequer was applied towards the liquidation of the interest of the debt, the annual amount lost to the revenue by redemption was thus balanced by a proportionate cancellation of capital stock.

At the time when the measure was brought into operation, the annual amount of tax made redeemable was calculated at about 1,860,000*l.*; and if the whole had been redeemed at the then price of the Funds, about 70,000,000*l.* of stock would have been withdrawn from the market. In fixing the price of redemption, it was considered reasonable that a small profit, beyond the amount of the tax redeemed, should be secured to the public to defray the expenses of the measure, for which the individuals redeeming would be compensated, it was presumed, by their property being thus relieved from liability to increased assessments of the tax.

It was consequently enacted that the amount to be paid should be so much stock in the 3 per Cent. Consolidated or Reduced Bank Annuities, as would yield a dividend exceeding the Land Tax to be redeemed by one-tenth part thereof. Supposing the tax to be redeemed amounted to 10*l.* stock sufficient to produce 1*l.* per annum was required, viz. : 366*l.* 13*s.* 4*d.*

The Act for carrying out the scheme was the 38 Geo. III. c. 60 (*a*), which was passed the 21st June, 1798. The first section made perpetual, subject to redemption and purchase in the manner therein stated, the sums charged by the Land Tax Act of that year (38 Geo. III. c. 5) upon the

(*a*) Although the whole of this Act, except ss. 1 and 2, have been repealed, and therefore those sections alone are to be found in the revised edition of the statutes, yet the saving clauses in the Act 42 Geo. III. c. 116, expressly reserves all the powers, &c. of the Contracts entered into under the old statute. As many of these Contracts are still in existence, the former statute must be referred to here.

several counties, ridings, stewartries, cities, boroughs, cinque ports, towns, and places in Great Britain, in respect of all manors, messuages, lands, tenements, and hereditaments; and all the provisions of the Land Tax Act were also perpetuated in regard to the quotas of Land Tax so fixed.

By sect. 2, the sums charged on personal estates, offices, and pensions, were excepted from the provisions of the Act, and were to be raised by Acts to be passed for that purpose.

The two leading features of the Act were—

1st. The *redemption* of the Land Tax by persons having an interest in the lands on which it was charged.

2nd. The *sale* thereof by the Government to strangers, upon the refusal or neglect of the persons interested to redeem it.

Upon *redemption* the Land Tax was to merge in the estate.

Where persons possessing an interest in the lands refused or neglected to redeem the tax within a given time, it was intended to permit strangers to purchase, as a rent-charge, the Land Tax assessed upon the estates of the persons so refusing (38 Geo. III. c. 60, ss. 68, 69, and 70), the Government undertaking to collect and pay it over to such purchasers (s. 77) (*b*).

Such strangers, however, were only to have the benefit of this investment until the Old Sinking Fund had reached

(*b*) The rate of purchase was higher than the rate of redemption; the stock to be transferred was to yield a dividend exceeding by one-fifth instead of one-tenth the value of the Land Tax purchased (s. 70).

the highest accumulation allowed by 26 Geo. III., at which period the right of redemption, by the owners of the lands charged with such purchased Land Tax, was intended to be revived; whereupon the Government were to repay to such purchasers the consideration given by them for the Land Tax so bought (ss. 92, 93 and 94).

This latter part of the scheme was not, however, carried out, in consequence of the period allowed by the Act for the redemption, *by persons interested*, having been extended from time to time by subsequent Acts, until the passing of the 42 Geo. III. c. 116, when the purchase of Land Tax from Government was placed upon a totally different footing.

Although this *leasing*, as it were, of part of the Land Tax by the Government was not put into execution, it is essential that the powers given for the purpose should be borne in mind, in order to guard against the error of confounding it with the *sale* of Land Tax by persons who, redeeming under the circumstances presently detailed, had the power of disposing of the same *as a marketable rent*.

This distinction is the less readily recognised by reason of several of the provisions, framed for regulating the proposed sale of Land Tax *by the Government*, having been rendered applicable to cases of sale of the tax by *private persons*, and though never in operation for the former object, are still in force with respect to the latter.

The Act also divided the persons entitled to redeem into two classes, viz. :—

Those in possession.

Those in remainder, reversion, or expectancy.

To the former a benefit of preference was given until the 25th December, 1798, when the right of the latter was to commence and continue until the 25th March, 1799; but if the persons entitled to preference gave notice of their intention to waive it, those next entitled in the order of succession might redeem.

The execution of the Act was at first confided to Commissioners appointed by the King, under the Royal Sign Manual; who were selected from the general body of Commissioners of Land Tax throughout the country (s. 5).

They were to contract with all bodies politic and corporate, and companies, whether corporate or not corporate, and feoffees, or trustees for charitable or other public purposes, and all persons entitled to redeem (*c*), for the redemption of the Land Tax on their respective estates.

They were also invested with authority to approve and regulate all sales and mortgages of lands or grants of rent-charges which the Act empowered the said bodies politic, &c. to effect for the purpose of raising money to redeem Land Tax.

Soon after the passing of the first Redemption Act, it was found necessary to alter, modify, and enlarge the powers thereby created, and several statutes were accordingly passed for that end. These statutes, as before observed, extended from time to time the benefit of preference in redemption, which the first Act accorded to persons in possession over those in remainder, and again

(*c*) Tenants at rack rent or of Crown Lands, or holding under the Duchies of Cornwall or Lancaster, were not entitled to contract.

to the latter over strangers. An alteration was also made with respect to the mode of providing the consideration for redemption. To remedy the inconvenience of purchasing stock in cases where the tax redeemed was of small amount, a provision was inserted in the 39 Geo. III. c. 6, empowering persons whose Land Tax did not exceed 25*l.*, to redeem the same by payment of so much money as would purchase the like amount of stock, which they must have transferred, if they had elected to effect their redemption by a transfer of stock.

A more special and exclusive jurisdiction was also established for regulating and approving sales made by ecclesiastical and corporate bodies, and seven persons, members of the Privy Council, were accordingly appointed under the Great Seal to act as Commissioners for the purpose (*d*) (39 Geo. III. c. 21). These Commissioners were subsequently invested with authority to direct all mortgages or grants of rent-charges by bodies politic or corporate, or companies, and all sales, &c. by feoffees or trustees for charitable or other public purposes (*e*).

Then followed the Act 42 Geo. III. c. 116, which consolidated most of the provisions of previous Acts, and repealed the enactments not embodied therein; but con-

(*d*) The Commissioners appointed were—William Lord Auckland, the Right Hon. Henry Addington (then Speaker of the House of Commons), the Right Hon. William Pitt, the Master of the Rolls (afterwards Lord Alvanley), the Right Hon. Sir William Wynne, the Lord Chief Baron, and the Right Hon. Sylvester Douglas (afterwards Lord Glenbervie).

(*e*) By 1 & 2 Vict. c. 58, the powers exercised by these Commissioners were transferred to the Lords of the Treasury.

tinued in force the provisions applicable to contracts already entered into; also those relating to sales, mortgages, &c. effected up to the period of the passing of that Act, and confirmed all rights and interests acquired under former Acts. Various statutes were subsequently passed for amending and extending the powers given by the Act 42 Geo. III. c. 116, and for making further provision for facilitating the redemption of the tax. The modifications effected by these enactments, and the further interests they created, will be found duly noted in the course of the review of the different rights to which the owners and occupiers of land have become entitled from time to time, under the operation of the Redemption Acts; and when it is remembered that the amount of Land Tax redeemed up to the present time represents an outlay on the part of the public of about twenty-eight millions, some estimate may be formed of the magnitude of the interests in question.

As the quotas of Land Tax made perpetual upon parishes by the 38 Geo. III. c. 60, were to be thereafter annually assessed by an equal pound rate upon the unredeemed lands situate therein, any increase in the value of property in a parish, from the inclosure of commons, the multiplication of buildings, &c. would obviously reduce in the same ratio the poundage rate upon such parish. Unless, therefore, some provision had been made for compensating redemptioners upon such a diminution taking place, no redemption would probably have been effected in parishes where any considerable improvement was at all in prospect; no one, for instance, being likely to re-

deem a Land Tax of 10%, with the chance of its proximate reduction to 8%.

“LAND TAX REDEEMED, BUT NOT EXONERATED.”

To encourage persons to redeem, and to meet cases such as those last referred to, it was enacted that persons redeeming their Land Tax might require that it should be dealt with in the same manner as the Act purposed to treat Land Tax purchased—that is, the charge was to be kept on foot, the person so redeeming to have the power of selling or assigning it, the Government being pledged to collect it, and pay it over to the persons so becoming entitled to the amount.

The 17th section of the before-mentioned Act of the 38 Geo. III. c. 60, consequently directed that any person desirous of redeeming upon the above understanding should, at the time of entering into his contract, declare his option to be considered in the light of a purchaser, which declaration was to be inserted at the end of the contract in the following words:—“And the said A. B. hath declared his option to be considered on the same footing as a person not interested in the said lands is by the said Act considered.”

Land Tax so redeemed is designated “Land Tax redeemed, but not exonerated.” Land Tax redeemed under a contract of this description is continued in assessment, as if it had not been redeemed; it is to be paid by the occupier of the land, and the redemptioner, his executors, administrators, or assigns, are invested with all the rights and powers to receive and recover the full amount of such

Land Tax, which the Act conferred upon an original purchaser (s. 17) (*f*).

Payment is to be made to the redemptioner, his executors, administrators, or assigns, by the collector or receiving officer of taxes for the county, of the full amount of such Land Tax, free of all charges and deductions whatever (ss. 72 and 78). In fact, the Crown may be said to hold the position of a trustee for the representatives or assignees of the first redemptioner.

Proprietors for the time being of any such Land Tax may sell, dispose of, and transfer the same, the Assignment to be in the form marked D in the schedule of the Act (*g*); which Assignment must be produced to the Registrar of Land Tax, who is required to enter a memorial thereof, to certify such entry by indorsement thereon, and to notify to the receiving officer the name of the party entitled to receive such Land Tax (s. 78).

Where any person becomes entitled to such Land Tax by marriage, or as executor or administrator, the registry of the marriage, probate of the will, letters of administration, or other instrument under which he is so entitled, must in like manner be produced for registry (s. 78) (*h*).

(*f*) The Act gives them power to recover the amount by distress, in the event of either the receiving officer or collector making default (sect. 82), an almost superfluous security, the Government being, of course, answerable for the claim.

(*g*) The exemptions from Stamp Duty on assignments under sect. 110 of this Act, and sect. 173 of 42 Geo. III. c. 116, are expressly saved by sect. 3 of the Stamp Act, 1870.

(*h*) Land Tax redeemed under 17th section with option declared,

The receiving officer paying such Land Tax to the person who appears by the registrar's entry or certificate to be entitled thereto, is indemnified, notwithstanding any defect of title in the person receiving it (s. 84).

Land Tax of this description is to be deemed personal estate, and not of the nature of real estate (s. 99) (i).

As the lands upon which the Land Tax has been thus redeemed, but not exonerated, are subject to annual assessment with the unredeemed lands in the parish, and the Land Tax is consequently liable to variation, according to the fluctuation of the relative value of the lands, the Act provides that, upon any abatement of the Land Tax so

was bequeathed by will to a married woman. Afterwards the husband, having registered his marriage in the Land Tax Office in the manner required by the 78th section, mortgaged the tax—he (by a deed of even date) covenanting to pay the mortgage debt, and reserving the equity of redemption to himself alone. The wife survived:—Held, that the husband of a proprietor of Land Tax upon registering the marriage under the Act acquires an absolute power of disposition over it: Held, further, that as the husband in this instance had disposed of the Land Tax only to the extent of the mortgage debt—the right of the surviving wife to the property, subject to payment of the debt, was not alienated. *Pigott v. Pigott*, 4 Eq. Rep. 549.

(i) Consequently, upon conveyance of any estate, whereupon the Land Tax has been redeemed, subject to the like option, a specific assignment (in the form D in the schedule of the Act) is necessary to vest such Land Tax in the assignee; as the general words of a conveyance will not pass it. Owing to misconception on this point, the production of the necessary documentary evidence of the title to such Land Tax has been attended, in some instances, with considerable difficulty and inconvenience.

redeemed taking place, the person entitled may, at his option, demand the difference from the receiving officer, or receive back a proportionate amount of the capital stock originally transferred for redemption (ss. 82 and 85).

Where persons not having an absolute estate in the property which was the subject of redemption, declared an option at the time of entering into their contract, they hold the Land Tax as an annuity issuing out of the estate, and transmissible to their representatives (s. 37). But reversioners, upon their estate vesting in possession, may demand an assignment of the redeemed tax from the representatives of such redemptioners, upon transferring the same amount of stock to them as was originally transferred on the contract (*j*); in which case, unless the assignee cause the like option to be inserted in the assignment, the lands will become exonerated (s. 18).

In the event of refusal to assign, the Superior Courts of Law in England and Scotland may compel assignment and award costs; and all persons under legal disability or incapacity are enabled so to assign under the direction of such courts (s. 18).

Where a person who had a limited estate did not, at the time of redemption (under sect. 17) declare his option to be considered on the footing of a purchaser, the lands

(*j*) By 39 Geo. III. c. 6, s. 7, Land Tax, not exceeding 25*l.*, might be redeemed by a money-payment; and the 48th section enacts that such Act and the 38 Geo. III. c. 60, are to be construed together as one Act; and by 42 Geo. III. c. 116, s. 91, all persons who have the right to demand such assignment may provide for the same by sale, mortgage, &c., of part of the estate.

(although in such case exonerated from Land Tax) became chargeable for the benefit of the redemptioner, his executors, administrators, or assigns (*k*), with a sum equivalent to the amount of stock transferred for the redemption of the tax, and with the payment of such yearly sum or sums of money, by way of interest thereon, equal to the amount of the Land Tax redeemed (s. 37) (*l*).

(*k*) In case of assignment of a rent-charge of this description, the form D in the schedule of the Act is not applicable; but the assignment should be made by a common law conveyance.

(*l*) The representatives of a deceased incumbent of a rectory who has out of his own estate redeemed the Land Tax prior to 1799, are entitled to recover from the succeeding incumbent the interest of the purchase-money at the rate of 3*l.* per cent. on such purchase-money. *Kilderbee v. Ambrose*, 10 Exch. 454; 24 L. J. Ex. 49. *Quære*, whether the principal is also a charge on the living capable of being enforced by a sale in chancery. *Semble*, it is not.

Owner of a leasehold interest redeemed the Land Tax without declaring the option:—Held, that there was no merger of the charge, but that he was owner of a specific charge on the premises. *Neane v. Moorsom*, 37 L. J. (N. S.) 274.

The guardians of an infant tenant in tail of lands redeemed the Land Tax without declaring their option. Subsequently the lands became vested in fee in Sir William Stanley, who conveyed them to trustees and their heirs upon trust for sale for his benefit. The trustees by his direction purchased and took a conveyance of "the Land Tax or rent-charge in lieu of Land Tax chargeable upon the lands" upon the like trusts:—Held, that the Land Tax *quâ* tax was extinguished upon its redemption by the guardians; that the rent-charge which remained in lieu of Land Tax was not a statutory tax capable of being enforced by the remedies provided by the Act, but a charge effected by the operation of equity; and that such charge merged upon being conveyed to the trustees. *Obiter*. Had Sir William Stanley been merely tenant for life of the lands, the legal merger would have had no effect on his equitable

Reversioners are, however, only liable to the payment of such interest from the time of coming into possession (s. 37) (*m*).

Persons entitled to such interest have the same powers and remedies for the recovery thereof as landlords for the recovery of rent in arrear (39 Geo. III. c. 6, s. 24).

Where persons availed themselves of the powers given by the Act to sell or charge part of an estate, for the purpose of redeeming the Land Tax, and at the time of entering into their contract declared their option to be considered as purchasers, the Land Tax was made attendant on the estate (*n*), and payable by the receiving officer of the county to the person for the time being entitled to the rents and profits, whose receipt is declared a discharge to such officer (s. 81).

The Act 42 Geo. III. c. 116, enables the executors, administrators or assigns of any person who, at the time of contracting for the redemption of Land Tax, under the 38 Geo. III. c. 60, declared an option to be considered in the light of a purchaser, to exonerate the lands comprised in such contract, by causing the Land Tax to merge in the estate (*o*).

interest. *Bulkeley v. Hope*, 1 K. & J. 482; 24 L. J. Ch. 356; 1 Jur. (N. S.) 864.

(*m*) As to power of remainderman to compel assignment of rent-charge, *vide* note, p. 74.

(*n*) No assignment is therefore, in such cases, necessary to be made to the person in remainder, upon his estate vesting in possession.

(*o*) These powers were, in the first instance, given by 39 & 40 Geo. III. c. 30, s. 12.

Persons desirous of so exonerating their lands should apply to the Commissioners of Land Tax acting for the division or place where the lands are situate, for a certificate, under the hands and seals of two of such Commissioners, of the amount of Land Tax then charged upon the lands. Upon production of this certificate, together with the original contract for redemption (*p*), to the Commissioners acting in the execution of the Redemption Acts (*q*), they will, if no variation has in the mean time taken place in the amount of the Land Tax, amend the certificate of the contract by striking out the optional clause (*r*), and certify their having done so on the back of such certificate. After registry and indorsement in the manner before stated of this certificate, the lands, &c., comprised in the contract will be exonerated from Land Tax from the quarter day next preceding the day whereon such certificate was left at the proper office for registry (42 Geo. III. c. 116, s. 40).

Should the amount of the Land Tax charged upon the lands at the time of seeking such exoneration, be more or less than the amount redeemed by the contract, the Commissioners will rescind the old contract and enter into a new one for the redemption of the Land Tax then charged, omitting the optional clause, and indorsing on the contract a copy of the receipt indorsed on the original contract,

(*p*) Or a copy taken from the Register, which is evidence of the redemption (38 Geo. III. c. 60, s. 76, or 42 Geo. III. c. 116, s. 165).

(*q*) Now the Commissioners of Inland Revenue.

(*r*) *Vide* p. 66.

given in respect of the consideration paid thereon. Where the Land Tax has been increased the party must transfer so much additional stock, or pay so much additional money, as may be necessary for the redemption of the difference; and where the Land Tax has been decreased he will be entitled to receive back a proportionate amount of stock or money.

The Land Tax, in these cases of its increase or diminution, will also be exonerated from the quarter day preceding the day when the new contract was left for registry (42 Geo. III. c. 116, s. 40) (s).

The power given by the 38 Geo. III. c. 60 (s. 17), to persons having an interest in lands, of declaring, at the time of redeeming the Land Tax their option to be considered as purchasers, was withdrawn by the 42 Geo. III. c. 116. Under the latter Act, Land Tax redeemed by persons possessed of the fee merged in the estate; but such Act contains provisions respecting persons possessing a less interest than an estate of inheritance in lands, and redeeming the Land Tax out of their own property, similar to those of 38 Geo. III. c. 60, s. 37.

Such persons have a claim on the estate to the extent of the consideration paid for redemption, and for a yearly

(s) Were these powers of exonerating properties from Land Tax more generally known, especially in cases where such Land Tax exists in the shape of an incumbrance on the estate, few persons it is conceived would neglect to avail themselves of them; and it may here be observed, that where persons entitled to such Land Tax are also owners of the land charged with it, the exoneration is not attended with any expense.

sum (of the nature of a rent-charge) by way of interest, equal to the Land Tax redeemed (s. 123) (t).

Reversioners, however, are only liable to payment of such interest from the time of their coming into possession; and where reversioners have redeemed the Land Tax, they are likewise entitled to a yearly sum, equal to such Land Tax redeemed, till the estate vests in them (*ib.*) (u).

(t) These provisions were repealed by the 16 & 17 Vict. c. 117, s. 2, from the passing of which enactment all Land Tax redeemed absolutely merged in the estate. But sect. 2 of 16 & 17 Vict. c. 117, was repealed by 19 & 20 Vict. c. 80, s. 3. *No sum, rent, or rent-charge, therefore, is to be given in respect of any redemption effected between the 20th August, 1853, and 29th July, 1856, during which period the merger clause was in operation.*

(u) It has been held that the person in remainder who has come to the possession of land, can compel the assignees of a tenant of a previous particular estate, who has redeemed the Land Tax charged on such land out of his own property, to receive at any time the principal money paid as the consideration for such redemption, with all arrears of interest, and so to free the land from the charge and payment of interest. *Cousins v. Harriss* and another, Q. B., 12 Jurist, 835.

Where the Land Tax upon any living has been redeemed, either by the patron thereof or any other person, or by a former incumbent out of his own funds, and a claim upon such living exists under this section to the extent of the Land Tax redeemed, the incumbent for the time being may treat with the redemptioner or his representatives for the assignment of such Land Tax for the benefit of the living, for which purpose he may raise money by sale, &c., of part of the glebe (45 Geo. III. c. 77), and where he has obtained such assignment out of his own money, he may reimburse himself by sale, &c. in like manner (53 Geo. III. c. 123, s. 29).

Where an Act of Parliament establishing a railway company authorized the company to purchase lands of corporations, tenants for life, &c., and directed that the purchase-money should be applied in the redemption of the Land Tax upon other parts of the

The persons entitled to such sums by way of interest have the same powers for the recovery thereof as are given by law for the recovery of rents reserved on leases (s. 125).

Where any tenant or lessee at rack rent for any term of years or at will is bound by agreement to pay the Land Tax, and it has been redeemed by the corporation, &c., or person beneficially entitled to the rent, the amount thereof during the continuance of such demise is to be considered as rent reserved, with the same powers of recovery (s. 126) (*x*).

Land Tax which has been redeemed by any bishop or ecclesiastical corporation with any moneys raised for the purpose under powers given by the Redemption Acts, is to be considered as an additional yearly rent on the demise (existing at the time of redemption) and on any future demises, and recoverable as such (s. 88) (*y*).

No mines or minerals, or seams or veins of coal, metals, or other profits of the like nature, belonging to any manors or lands sold by any bishop or other ecclesiastical corporation, nor any advowson or right of patronage or presentation to any perpetual curacy, shall pass by any property unsold:—held, that a tenant for life who had redeemed the Land Tax before the passing of the Act might reimburse himself out of the proceeds of the lands purchased of him by the Company. *Ex parte* Lord Northwick, 1 Y. & C. 166.

(*x*) See also 38 Geo. III. c. 60, s. 14.

(*y*) In any lease granted after the passing of the Act, the redeemed Land Tax must, in addition to the ancient and accustomed rent, be expressly reserved and made payable during the term granted by the lease. *Doe dem. Murray v. Bridges*, 1 B. & Adol. 847. See also 39 Geo. III. c. 21, s. 10; 39 Geo. III. c. 43, s. 5; and 50 Geo. III. c. 58, s. 2.

conveyance of such manors, &c., although such advowson may be appendant or appurtenant to the same, as they must always be reserved (s. 80) (z).

Where Land Tax has been redeemed by corporations or feoffees, or trustees for charitable or other public purposes, on copyhold or customary lands, held by lease, it is also to be considered as rent reserved thereout (s. 89).

Such corporations, &c., may contract with their lessees, &c., who have redeemed the Land Tax, for an assignment thereof, and may sell lands, &c., to raise money for the purpose (s. 86).

Where the Land Tax charged upon lands belonging to any bodies politic or corporate (other than bishops or other ecclesiastical corporations), or to any other person, and granted out upon any beneficial lease, or by copy of court-roll or other grant, according to the custom of any manor, for life or lives, or years absolute, or years determinable upon any life or lives, has been redeemed by sale of part of the lands, the unsold parts are chargeable with an annual sum by way of rent-charge equal to the amount of the Tax redeemed (s. 118).

Where Land Tax has been redeemed by the grant of a rent-charge (under ss. 51 and 69), the person to whom the same is granted has the like remedies as landlords for

(z) See also 39 Geo. III. c. 21, s. 12, when this exception was first made, and also the recent case of *Whidborne v. The Ecclesiastical Commissioners for England*, 7 Ch. D. 375, where it was held by the Master of the Rolls that where a portion of the glebe lands of a vicarage had been sold to redeem the Land Tax, the surplus moneys could not be applied towards repairs and improvements of the vicarage house.

recovery of rent (s. 116). But no remainderman or reversioner is liable for more than one year's arrear of rent-charge (s. 115).

Where any corporation, &c. or person has redeemed Land Tax on lands, &c. which at the time of redemption were subject to any fee farm or other annual rent, for which a proportion of rate might be deducted under the Land Tax Act (38 Geo. III. c. 5), such proportion can still be deducted, notwithstanding the redemption (s. 127) (a).

Where part of the lands, &c. belonging to one of two consolidated livings has been sold for redeeming the Land Tax on both livings, and the livings become disunited, the incumbent of the living whereof the land has been thus sold is entitled to a rent-charge out of the other living equal to the amount of the Land Tax charged thereon prior to the redemption (53 Geo. III. c. 123, s. 26).

Land Tax which has been redeemed upon lands belonging to the Crown, and the Duchies of Lancaster and Cornwall, is considered as rent, and recoverable as such against the immediate lessees, and by them against the underlessees (38 Geo. III. c. 60, ss. 55, 63, and 42 Geo. III. c. 116, ss. 141, 149).

By the Act 42 Geo. III. c. 116, persons possessed of an interest in lands, either vested or contingent, were allowed until the 24th June, 1803, to elect if they would redeem the Land Tax charged upon the estates in which they held such interest, after which period strangers were permitted to purchase such Land Tax as a fee farm rent issuing out

(a) See *Moody v. Dean and Chapter of Wells*, 1 H. & N. 40; 25 L. J., Ex. 273; 27 L. T., Ex. 82.

of the lands, and payable, free of all charges and deductions whatever, to the purchaser, his heirs, successors, and assigns (sect. 154) (*b*). The lands in such case thereupon became exonerated from Land Tax.

Where the Land Tax charged on any lands, &c. demised at a rack rent has been *purchased* by a lessee or tenant not bound by agreement to pay the Land Tax, he may retain a corresponding amount out of the rent (s. 158).

For the purpose of *purchasing* Land Tax, corporations and companies, or trustees for charitable or other public purposes, were invested (by 53 Geo. III. c. 123, s. 31) with the powers given by the 42 Geo. III. c. 116, for raising money for *redemption*.

Gifts of Land Tax redeemed or purchased, made for the augmentation of any living, are valid, notwithstanding the Statutes of Mortmain (42 Geo. III. c. 116, s. 162).

Under the powers of 57 Geo. III. c. 100 (s. 20), allot-

(*b*) As to the construction of this clause, see *Williams v. Steward*, 3 Meriv. 472. The purchase of Land Tax to the amount of 40s. entitled the purchaser to vote at an election for a Member of Parliament, and the Act 51 Geo. III. c. 99, declared that it should not be necessary for a person claiming to vote in respect of Land Tax purchased, to have the same or any memorial of the contract or certificate of the purchase thereof, registered, as other fee farm rents and annuities, or memorials thereof, were required by law to be registered before any person could vote at an election in respect of them.

The very limited extent to which persons have availed themselves of this power of purchasing Land Tax as freeholds, must be attributed to its existence not having been generally known. By 16 & 17 Vict. c. 117, the right of strangers thus to purchase Land Tax as a fee farm rent is withdrawn.

ments may be made under Inclosure Acts, in lieu of fee farm rents payable in respect of Land Tax purchased.

By the same Act, sect. 22, the Commissioners for the Affairs of Taxes (*c*) are enabled to execute and confirm deeds of sale, &c., which have not been executed by the Commissioners acting under the Royal Sign Manual. By sect. 24, deeds executed under the Redemption Acts, and which were omitted to be enrolled, are declared valid if enrolled within twelve months after the passing of that Act, and power is given to the Commissioners for regulating the redemption of the Land Tax to direct the enrolment of any deeds thereafter to be executed which might be omitted to be enrolled within the proper time; and by 25th section of the same Act all informal or defective sales or conveyances made before the passing of that Act are declared valid, provided they were executed under the authority of the then acting Commissioners (*d*).

Although the difference between the terms *purchase* and *redemption* is clearly defined in the Act 42 Geo. III. c. 116, yet as in the previous Acts these terms appear indiscriminately employed to designate the *redemption* of Land Tax, it has been considered advisable to recapitulate briefly, in the following cases, the several modes of contracting which existed previous to the passing of the 42 Geo. III. c. 116:—

(*c*) Now Board of Inland Revenue.

(*d*) See also 54 Geo. III. c. 173.

In *Beadon v. King*, 9 Hare, 499; 22 L. J., Ch. 111, it was held that if it were shown that a purchase under the Land Tax Redemption Acts had been effected by fraud, the Court would rectify it, notwithstanding the confirming statutes, for a purchase so effected would not acquire validity from those statutes.

CASE 1.—A. B., having the absolute interest in certain lands, &c., redeemed the tax thereon without declaring his option to be considered in the light of a purchaser. The lands, &c., thereupon became *exonerated*, and the Land Tax merged in the estate.

CASE 2.—C. D., having a like interest, declared at the time of redemption his option to be considered as a purchaser. The tax here *remained in assessment* (subject to variation), and the redemptioner, his executors, administrators, or assigns, held the amount redeemed as a rent-charge issuing out of the estate.

CASE 3.—E. F., possessing an estate in the lands, &c., other than that of inheritance (*e*), redeemed the tax out of his own funds, and without declaring the like option. The lands, &c., were *exonerated*; and the redemptioner, his executors, administrators, or assigns, became entitled to a rent-charge thereout equal in amount to the Land Tax redeemed, and to the amount of the stock transferred, or money paid, as consideration for such redemption.

CASE 4.—G. H., having a similar interest, declared the above option at the time of effecting the redemption. The lands, &c., continued *assessable* to Land Tax; and the redemptioner, his executors, administrators, or assigns, became possessed of the Land Tax redeemed as a transmissible rent.

The *purchase* of Land Tax contemplated by these Acts

(*e*) An estate tail is not an estate of inheritance within the meaning of the Land Tax Redemption Acts. See *Ware v. Polhill*, 11 Ves. 257.

has been already described (*f*), together with the cause of its not having been carried into operation.

It thus appears that until the passing of the 42 Geo. III. c. 116, no *purchase* of Land Tax from the Government took place; but as the mode of redemption in the second and fourth cases above described, amounted, in effect, to a purchase, and as the term purchase was not represented by any operation having practical existence, it may be assumed that a scrupulous observance of the distinction between the terms was not deemed essential.

It must be remembered that contracts entered into before the 53 Geo. III. were subject to the provisions of the 38 Geo. III. s. 17.

In the case of a discrepancy between a contract entered into (under the old Act) for, and the certificate of redemption on the one hand, and the schedule to such contract, and certificate and duplicate assessment on the other, the contract and description is to be deemed the true description, in the absence of affirmative evidence to the contrary, which evidence it lies upon the Land Tax Commissioners to produce. See judgment in "*Hodson and another v. Pearson*," given in full in the Appendix; and also the case of "*Buchanan v. Poppleton*," 27 L. J. C. P. 210, where it was held that the only evidence of a redemption is the certificate of the Commissioners, or a copy of the Register. See also note (*p*), p. 72, as to certified copy.

The Act under which redemptions are now effected is the 53 Geo. III. c. 123, and it is here necessary to briefly refer to one or two points of practice in connection therewith.

(*f*) Page 61.

It is not advisable in small redemptions to pay the consideration money by means of a transfer of stock, except in special cases, because, owing to the periodical closing of the transfer books at the bank, and other causes, it entails trouble upon the redemptioner quite out of proportion to the amount of Land Tax to be redeemed. It is also, as a rule, highly undesirable to enter into a contract before the assessment for the then current year is made, *i. e.*, signed by the Commissioners. By waiting until that step has been taken the possibility of the necessity for amending or cancelling the contract, if prepared on the previous year's assessment, is thus avoided (see proviso in s. 20).

Under sect. 21, the Board of Inland Revenue have power, if there be any error in a "certificate of contract," to amend or cancel the same. It would appear from the statute, ss. 12 and 21, that the "declaration" signed by the party is, strictly speaking, the "contract," and that the document signed by the Board of Inland Revenue is the "certificate of contract." The former section enacts that the contract, or certificate of contract, is "binding" upon the redemptioner, or his representatives, for the "completion" of the contract.

The third rule of Schedule E. of the Act provides the remedy for recovery of the consideration money due under a contract "as a debt on record." The nature of the "process" is by writ of "scire facias" on the part of the Crown.

PART VIII.

PROGRESS OF REDEMPTION.

At the outset and during the first year and a half following its introduction, Mr. Pitt's measure gave promise of the highest success. The low price of the funds in 1798 (they were under 48 per cent. when the redemption commenced) enabled persons to redeem their Land Tax at about $18\frac{1}{2}$ years' purchase, thus providing them with an investment yielding 5 to $5\frac{1}{2}$ per cent., upon the best security, *viz.*, their own estate, without any risk or trouble of collection. Although, so soon as the scheme was in operation, a considerable rise in the 3 per Cent. Annuities took place (principally caused by the measure itself), the average price until the year 1800 did not exceed 56 per cent., which rate admitted of the tax being redeemed at an average of 21 years' purchase. There can be little doubt, however, that of the great body of landowners who at once came forward to redeem, many were actuated as much by a desire to assist in maintaining the public credit as by the opportunity afforded them of making a judicious investment.

It will be seen by the subjoined Table of the amount

of annual redemptions from the commencement, that the total amount of tax redeemed from July 1798 to the end of 1799, exceeds by more than 100,000*l.* the aggregate amount redeemed from that year to the present time; and also, that excepting the year 1803, when a great stimulus was given to redemption by allowing strangers to purchase the unredeemed tax on other persons' estates, the rate of redemption steadily declined after the year 1799; from which fact it may be inferred that the vast majority of the landowners who possessed the means of so doing, availed themselves of the measure simultaneously. It is difficult otherwise to account for the enormous decrease in redemption apparent in the years immediately following. The cause cannot be sought in the increased price of the Funds; for although they rose to an average of 70 in the year 1802, the amount redeemed in that year was but 300*l.* less than the total redeemed in 1804, when the average price of Stocks was 56. In 1805 they averaged 58, yet the amount redeemed in that year was less by 3,555*l.* than in 1802, with an average price of 70. A consideration of the Table does not support the impression sometimes entertained that the progress or decline in redemption invariably followed the fluctuations in the price of the 3 per Cents. There is reason to believe that except the large landed proprietors, including corporations, both ecclesiastical and lay, who were in a certain degree influenced by patriotic motives, the public did not avail themselves to the extent anticipated of the advantages which the measure presented; it may therefore be assumed that in a financial point of view, the scheme did not prove

sufficiently attractive at a period when a scarcity of money prevailed. Apart from the want of capital, many of the small landholders and occupiers were possibly deterred from redemption by the complicated nature of the proceeding, which, until altered in the year 1813, involved much trouble and inconvenience.

The rate of redemption being the same for houses as for lands has likewise proved a serious obstacle. This was especially the case in all old towns, which, from their importance at the time of the first imposition of the tax, bore comparatively a high quota. They contained a number of old houses which would sell for about fifteen or sixteen years' purchase, and if the owners had redeemed at about twenty-two or twenty-four years' purchase, and afterwards had sold, they would necessarily have lost several years' purchase of the tax. In rural districts the same objection applied to the redemption of cottage property, which, though worth only about ten years' purchase, was assessed equally with meadow or corn lands. With respect to houses, therefore, it may be assumed that redemption was effected, as a rule, in cases only of contemplated improvements likely to entail a corresponding increase in the assessment of the tax.

TABLE

Showing the Amount of Land Tax redeemed in each Year from the commencement to the Year 1853; the amounts of Three per Cent. Stock cancelled, the Dividends thereon, and average years' purchase at which Redemption was effected.

YEARS.	Amounts of Land Tax redeemed.	Amounts of Stock cancelled.	Amounts of Dividends thereon.	Average prices of Stock.	Average years' purchase.
	£	£	£		
1798 } 1799 }	435,888	13,059,587	391,788	56	20½
1800	40,418	3,034,215	91,026	63	23
1801	33,287	1,907,346	57,220	61	22½
1802	16,470	1,179,439	35,383	70	25½
1803	55,819	1,967,302	59,019	57	21
1804	16,748	646,419	19,393	56	20½
1805	12,915	531,432	15,943	58	21½
1806	12,993	391,046	11,731	61	22½
1807	9,293	260,043	7,802	62	23
1808	6,619	237,566	7,127	66	24
1809	6,550	207,072	6,212	68	25
1810	7,324	284,623	8,539	67	24½
1811	7,472	234,965	7,049	63	23½
1812	11,554	437,747	13,132	59	21½
1813	6,987	255,076	7,652	59	21½
1814	10,605	326,432	9,793	66	24
1815	5,127	194,743	5,842	59	21½
1816	3,485	135,937	4,078	61	22½
1817	3,235	98,239	2,947	75	27½
1818	4,299	112,860	3,386	78	28½
1819	2,802	134,225	4,027	71	26
1820	2,241	89,883	2,696	68	25
1821	2,231	92,888	2,787	74	27
1822	2,153	90,935	2,728	79	29
1823	1,588	67,055	2,011	79	29
1824	1,690	70,267	2,111	93	34
1825	1,210	58,665	1,759	90	33½
1826	1,864	79,990	2,399	79	29
<i>Carry forward</i>	722,867	26,186,097	785,580		

YEARS.	Amounts of Land Tax redeemed.	Amounts of Stock cancelled.	Amounts of Dividends thereon.	Average prices of Stock.	Average years' purchase.
<i>Brought forward</i>	£ 722,867	£ 26,186,097	£ 785,580		
1827	1,848	81,467	2,444	84	31
1828	1,497	53,448	1,603	85	31½
1829	1,143	59,528	1,785	88	32
1830	1,134	48,327	1,453	89	32½
1831	1,593	51,510	1,546	80	29½
1832	902	39,507	1,185	83	30½
1833	1,277	39,541	1,186	88	32½
1834	705	40,147	1,204	90	33½
1835	952	40,744	1,223	91	33½
1836	959	46,135	1,384	90	33½
1837	990	56,182	1,685	91	33½
1838*	2,520	71,157	2,135	93	34
1839	3,395	123,545	3,706	91	33½
1840	1,159	51,318	1,540	89	32½
1841	1,242	41,402	1,242	89	32½
1842	657	26,723	802	91	33½
1843	566	24,976	749	95	35
1844	1,049	29,087	873	99	36½
1845	766	35,364	1,061	98	36
1846	763	19,610	588	95	35
1847	1,382	53,215	1,596	87	32
1848	1,179	44,377	1,331	85	31½
1849	589	29,190	876	92	33½
1850	995	34,001	1,020	96	35½
1851	900	31,927	958	96	35½
1852	1,457	43,193	1,296	99	36½
	754,486	27,401,718	822,051		

Until the year 1813, no alteration was made in the terms originally fixed for redemption. In that year, it was enacted by the 53 Geo. III. c. 123, afterwards renewed by the Acts 54 Geo. III. c. 173, and 57 Geo. III. c. 100, that the Land Tax charged upon houses, not having more

* The increase in redemption about this period is attributable to the inauguration of the railway system, the tax on the lands purchased being redeemed during the construction of the lines.

than a quarter of an acre of land annexed to them, might be redeemed for a money consideration amounting to eighteen years' purchase of the tax; which terms were from $3\frac{1}{2}$ to 8 years' purchase less than the then current price of redemption.

The number of contracts entered into upon these terms from the year 1813 to the year 1818, beyond which period the privilege was not extended, reached 1978, and the amount of Land Tax redeemed thereunder was 7,258*l*.

Persons in the actual possession of tenements or hereditaments, or entitled to the rents thereof, might also under the first-named Act contract at any time before the 25th March, 1815, for the redemption of their Land Tax, if not above 10*l*., by payment of an additional assessment equal to such Land Tax for a term of eighteen years certain, or until such additional assessments, being placed to one account and invested in the 3 per Cent. Annuities, together with the accruing dividends thereon, should produce a dividend exceeding the amount of the Land Tax redeemed by one-tenth part thereof.

The next modification in the price of redemption was effected in the year 1817, in favour of corporations and persons entitled to the patronage of livings, who were enabled to redeem the Land Tax charged thereon by a transfer of Stock yielding a dividend equal in amount to the Land Tax; the additional tenth required in other cases being waived (57 Geo. III. c. 100, s. 12).

The redemption of the Land Tax was not again dealt with by the Legislature until after a lapse of thirty-five years, although the subject had been from time to time

brought under the notice of Parliament; more particularly in the year 1836, when it was considered by the Select Committee of the House of Commons on Agricultural Distress; and again in 1846, when it was investigated by the Select Committee of the House of Lords nominated to inquire into the burdens affecting Real Property.

It was in the year 1853 that the most extensive permanent reduction in the terms of redemption was made.

By the 16 & 17 Vict. c. 74, the terms were fixed at 17*l.* 10*s.* per cent. less than those required by the 42 Geo. III. c. 116—a remission of over six years' purchase of the tax. Thus a Land Tax of 100*l.* was made redeemable by a transfer of 3,025*l.* Stock, the dividend upon which is 90*l.* 15*s.*, in lieu of 3,666*l.* 13*s.* 4*d.* Stock, yielding a dividend of 110*l.* This very considerable sacrifice failed, nevertheless, to give to redemption the stimulus anticipated; for although within the first year of such reduction the amount of Land Tax redeemed rose to 7,814*l.*, it fell to 2,893*l.* in the succeeding year, and from that time until a few years ago the yearly average was under 3,000*l.* From the recent report of the Board of Inland Revenue it appears that now "about 3,000*l.* or 4,000*l.* is generally" redeemed in the course of each year (*a*).

(*a*) In 1853 the 3 per Cents. averaged 96, and the price of redemption was consequently equivalent to about 29 years' purchase; a rate obtainable under the old terms, when the 3 per Cents. ranged between 79 and 80. On referring to the years in which the 3 per Cents. stood at that price, *viz.*, 1822, 1823, and 1826, it will be seen that the amounts then redeemed were respectively 2,153*l.*, 1,588*l.*, and 1,864*l.* only; showing that even so considerable a reduction

Up to this period also, the moneys paid as the consideration for redemption were invested, under the Acts, in the purchase and cancelling of Stock in either of the 3 per Cent. Reduced or Consolidated Bank Annuities; but by the Act 16 & 17 Vict. c. 90, s. 8, the Commissioners for the Reduction of the National Debt are empowered to lay out such moneys in the purchase and cancelling of *any* Parliamentary Stocks or Annuities chargeable upon and payable out of the Consolidated Fund.

The foregoing Table is therefore not carried down beyond the period when the 3 per Cent. Stocks *exclusively*, were cancelled by the moneys arising from redemption.

The amount of Land Tax redeemed, shown in the foregoing Table, includes a sum of 8,802*l.*, which was remitted upon livings and charitable institutions, the total income of which did not exceed 150*l.*, by the Commissioners appointed under the Great Seal in accordance with the powers given to them for that purpose by the Acts 46 Geo. III. c. 133; 49 Geo. III. c. 67; 50 Geo. III. c. 58; 53 Geo. III. c. 123; 54 Geo. III. c. 173, and 57 Geo. III. c. 100. These Commissioners, as before stated (*b*), were appointed in 1799 to superintend all sales made by ecclesiastical and eleemosynary corporations for raising money to redeem Land Tax; and by the above Acts they were authorized to exonerate the livings and charitable institutions from the Land Tax charged thereon, without payment of any consideration, provided the aggregate amounts

was not sufficiently tempting to induce persons to redeem as an investment.

(*b*) Page 64.

exonerated did not exceed 8,000*l*. This remission was covered by the gain of one-eleventh made upon the total amount of Stock obtained upon the sales sanctioned by those Commissioners, and transferred as consideration for redemption, which gain, in their report to Parliament in the year 1820, the Commissioners computed at about 10,000*l*. per annum.

The subjoined Table shows the number of small livings and charitable institutions exonerated in each year from the passing of the Act 46 Geo. III. c. 133, when the authority was first given, together with the amount of Land Tax remitted.

Years ending at Christmas.	Number of Livings exonerated.	Number of Charities exonerated.	Amount of Tax on Livings exonerated.			Amount of Tax on Charities exonerated.		
			£	s.	d.	£	s.	d.
1806	732	20	3,267	13	3½	73	12	10
1807	467	148	1,683	7	10½	305	18	6
1808	62	38	219	16	9	109	14	8½
1809	40	—	112	6	0½	—	—	—
1810	95	4	392	10	1½	5	17	2½
1811	67	98	186	15	1½	279	3	7
1812	1	—	0	14	10	—	—	—
1813	38	19	94	7	9½	51	13	11½
1814	341	163	781	8	3½	342	14	9½
1815	43	25	90	15	7	31	5	4½
1817	73	37	161	1	2½	60	5	11½
1818	134	75	264	14	5½	114	2	8½
1819	42	50	84	5	1½	82	10	5½
1821	1	2	0	17	7	2	17	0
1822	4	—	2	7	0	—	—	—
Totals	2,140	679	7,343	1	2	1,459	17	2½

PART IX.

LAND TAX IN SCOTLAND.

THE public subsidies in Scotland appear to have been levied from a very early period, according to valuations made for the purpose. The earliest of which there is any record was one made by Alexander III. in 1280, which was called the "Old Extent." The next valuation was made in 1326, during the reign of Robert I., and the value of the lands then ascertained was called the "New Extent" (*a*). The "Old Extent" was nevertheless in use as a basis of taxation for several centuries, and was not abandoned until Cromwell's time, when new valuations were made, the last in 1660 (*b*). But after the Restoration the first tax—which was charged properly on land—was imposed by the Convention of 1665 and levied by rule of old extent. The next was made by an act of the Convention of Estates held at Edinburgh on 23rd January, 1667.

This consisted of a supply of 72,000*l.* monthly, for the

(*a*) Erskine's Inst., part 2.

(*b*) In 1621 a tax was granted, to continue, for the space of four years—30*s.* (Scotch) yearly—upon every pound-land of *old extent*, and of the twentieth penny of all interest due on bonds, bills, and other securities. Jac. VI. cc. 2, 3. In 1633 a tax of 30*s.* (Scotch) was also imposed upon every pound-land of *old extent*. (Maitland's History of Scotland.)

space of twelve months, and was "to be raised and paid by the several shires and burghs of this kingdom, according to the valuations in the year of God 1660." The Act named certain persons Commissioners for the shires and appointed the magistrates Commissioners for the burghs, directing the latter to choose Stentmasters (*c*), who were to assess and apportion the tax among the contributors. In the counties the tax appears to have been levied from lands according to their valued rent (which term represented the old extents); but in the burghs it was raised from rents and incomes "according to the avail and quantity of each person's rent, living, goods, and gear, which he hath within the burgh" (*d*).

This practice was observed in levying the supplies granted under the different Acts of Parliament, and was continued after the Revolution, as may be seen by the Act of 1690, c. 6, and subsequent Acts, wherein similar directions are laid down.

In the Act 5 & 6 of Ann, c. 8, intituled "An Act for an Union of the two Kingdoms of England and Scotland," it is provided (Article IX), "that whenever the sum of 1,997,763*l.* 8*s.* 4½*d.* shall be enacted by the Parliament of Great Britain to be raised in that part of the kingdom called England, on land and other things usually charged in Acts of Parliament there for granting an aid to the Crown by a Land Tax, that part of the United

(*c*) Stentmasters were so named from the word stent, a corruption of "extent," i. e., to value the lands and apportion the tax. (Jamieson's Scottish Dictionary, Vol. II.)

(*d*) See note (*e*), p. 95.

Kingdom now called Scotland shall be charged by the same Act with a further sum of 48,000*l.*, free of all charges, as the quota of Scotland to such tax, and so proportionately for any greater or lesser sum raised in England by any tax on land and other things usually charged together with the land, and that such quota for Scotland in the cases aforesaid be raised and collected in the same manner as the cess now is in Scotland, but subject to such regulations in the manner of collecting as shall be made by the Parliament of Great Britain" (*d*). In accordance with the above statute, the quota for Scotland varied proportionately with that of England down to the year 1798, when the sum granted for England in that year by

(*d*) The Land Tax was usually imposed at the rate of 36,000*l.* per annum, but in order that Scotland, in regard to its lesser wealth and income, might pay exactly in the same proportion with England, it was agreed that 48,000*l.* should be raised upon the land in Scotland, when 4*s.* in the pound, or 1,997,763*l.* 8*s.* 4½*d.* was laid upon that in England. The revenue derived from Scotland at the time of the Union was as follows:—

	£
1. Crown Rents	5,500
2. Feudal Casualties	3,000
3. Customs	30,000
4. Excise	33,500
5. Post-Office	1,194
6. Coinage Impositions	1,500
7. Land Tax	36,000
	£110,694

To put both kingdoms on an equal footing, 12,000*l.* additional Land Tax was to be levied in Scotland. The rental of England, if the Land Tax then levied was equal to $\frac{1}{3}$ of whole £9,988,815
Of Scotland on same data . . . 240,000

(Sinclair, Part II.)

£10,228,815

38 Geo. III. c. 5, was 1,989,673*l.* 7*s.* 10½*d.*; and the quota for Scotland fixed at 47,954*l.* 1*s.* 2*d.*, to be levied by an eight months' cess of 5,994*l.* 5*s.* 1¾*d.* per month, the said cess to be raised out of the land rent according to the monthly proportions within the respective shires, stewartries, cities, and boroughs set forth in the Act (sect. 128); the proportion of the boroughs was to be rated and paid according to the then existing tax roll, or was to be settled by themselves (sect. 129) (*e*).

The amount of the quota was to be raised free of all charges, and to be paid at Edinburgh (sect. 136).

The sums so assessed upon the counties, stewartries, cities, and boroughs, &c., were made perpetual, subject to redemption, by the 38 Geo. III. c. 60; and they have from such time been assessed under the provisions of the 38 Geo. III. c. 5, continued for the purpose by the 42 Geo. III. c. 116, which Act provides (sect. 180) that all lands, tenements, and hereditaments situated in Scotland shall continue subject to a new assessment yearly, and from year to year, according to the rates and in the manner established by law or custom in that country.

By T. M. A. s. 82, the Land Tax is payable on or before the 1st of January in every year.

The Commissioners under whose superintendence the tax is levied, are appointed in the same manner as the Commissioners who act in England (*f*).

No person can act as a Commissioner for Scotland, who

(*e*) Much of the Scotch Land Tax appears to be in the nature of a charge on personality. See p. 34, as regards the repeal of Land Tax on personal estates in England.

(*f*) See page 36.

is not enfeofft of 100*l.* Scots per annum, real rent, in the county where he acts, unless he be the eldest son and heir apparent of a person so enfeofft (sect. 137). Before a Commissioner can act he must take the oaths of allegiance and supremacy, and subscribe the assurance appointed by law to be taken and subscribed by persons in offices of public trust in Scotland, under a penalty of 20*l.* (sect. 138) (*g*). Any provost, bailie, dean of guild, treasurer, master of the merchants' company, or deacon covenor of the trades of any royal borough, and any bailie for the time being of any borough of regality or barony, or the factors for the time being on the several forfeited estates annexed to the Crown by the Act 25 Geo. II. c. 41 (*h*), are capable of acting as Commissioners for such county, or stewartry (sect. 139).

By 7 & 8 Geo. IV. c. 75, s. 4, it is enacted that any sheriff depute or sheriff substitute for the time being of any county or stewartry in Scotland, who is or may be named to be a Commissioner for putting into execution the Acts relating to the Land Tax, shall be capable of acting as a Commissioner for such county or stewartry, anything in any former Act to the contrary in any wise notwithstanding.

The duties of these Commissioners formerly included the assessment and collection of the tax, but the management of the collection was transferred in 1835 by 5 & 6 Wm. IV. c. 64 to the Lords of the Treasury and the officers they might appoint.

(*g*) See 31 & 32 Vict. c. 72, altering forms of oaths.

(*h*) Repealed by 24 Geo. III. sess. 2, c. 57, s. 34.

In consequence of the augmented value of property since the establishment of the tax in perpetuity, the unredeemed quota, now under 35,000*l.*, is raised at a very trifling rate. In many districts, indeed, no assessment is made, the small amount payable being contributed from the common good in some cases, and in others discharged by the Superior, as will be seen from the following extract from a Return to Parliament in the year 1849.

APPORTIONMENT OF LAND-TAX QUOTAS IN SCOTLAND.

Cities, Boroughs, and Towns.	Average Rate per Pound.
1. Aberdeenshire :	
Aberdeen City	The rate is 3 <i>d.</i> per 100 <i>l.</i> Scots (or 5 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> sterling) on shipping, lands, fishing and houses, and 3 <i>d.</i> per 100 <i>l.</i> sterling on trade.
Peterhead	$\frac{1}{4}$ or $\frac{1}{2}$ of a penny on each ton of shipping, $\frac{1}{4}$ of a penny on each <i>l.</i> of rent of heritage, and 2 <i>l.</i> 10 <i>s.</i> (part of the old quota of 14 <i>l.</i> 3 <i>s.</i> 2 <i>d.</i>) apportioned annually on traders.
Kintore (†)	No assessment; paid always by the Superior.
Inverury	$\frac{1}{4}$ per trend boll.
Fraserburgh	The account received from this place of the mode of assessment, is not understood.
Old Meldrum	No assessment; paid by the Superior.
Turriff	Ditto ditto.
2. Argyleshire :	
Campbeltown	No assessment; paid from common good of burgh.
Inverary	Ditto ditto.

(†) In the places marked "No assessment" or "No rate," the meaning is, that the quota of Cess or Land Tax is paid out of the common good of the town or burgh, or by the Superior or otherwise, and that there is actually no rate levied upon the inhabitants.

Cities, Boroughs, and Towns.	Average Rate per Pound.
3. Ayrshire:	
Ayr Burgh.....	1 <i>d.</i> per pound on houses, lands, and trade.
Irvine	2½ <i>d.</i> per pound on ditto ditto.
Kilmarnock	No assessment; paid from common good of burgh.
Saltcoats	Ditto ditto.
4. Banffshire:	
Banff Burgh	No assessment; paid from common good.
Cullen	Ditto ditto.
Portsoy	No assessment; paid by the Superior.
5. Berwickshire:	
Lauder and Eyemouth	No assessment; paid out of common of the burgh.
6. Buteshire:	
Rothesay	¾ <i>d.</i> per pound.
7. Caithness-shire:	
Wick	1 <i>s.</i> 4¾ <i>d.</i> per pound.
Thurso.....	9½ <i>d.</i> per pound.
8. Clackmannanshire:	
Alloa	2½ <i>d.</i> per pound on the valuation (Soots).
9. Cromartyshire:	
Cromarty	No assessment; fixed sum paid.
10. Dumbartonshire:	
Dumbarton	No assessment; fixed sum paid.
11. Dumfries-shire:	
Dumfries.....	1½ <i>d.</i> per pound on lands, 1 <i>d.</i> per pound on houses, and fixed sum on trade.
Annan	No assessment; paid from common good.
Sanquhar	Ditto ditto.
Lochmaben.....	½ <i>d.</i> per pound.
12. Edinburghshire:	
Edinburgh City.....	2½ <i>d.</i> per pound.
13. Elginshire:	
Elgin	1 1/2 <i>d.</i> per pound.
Forres	1 <i>d.</i> per pound.

Cities, Boroughs, and Towns.	Average Rate per Pound.
14. Fifeshire—Burghs:	
Anstruther, Easter ..	No equal rate; laid on according to the estimation of party's circumstances; two-thirds on trade, and one-third on property.
Ditto, Wester	Same mode, wholly upon trade, professions, &c.
Burntisland	1 <i>d.</i> per pound of rental.
Cupar	1 <i>d.</i> per pound on rental, and on traders, &c., according to estimation of party's circumstances.
Crail	No stated rate; laid upon property according to the opinion of Stentmasters.
Dunfermline	2 <i>d.</i> per pound of rental.
Dysart	3 <i>½d.</i> per pound of rental.
Inverkeithing.....	No rate; charged according to estimation of party's circumstances.
Kirkaldy	1 <i>½d.</i> per pound of rental.
Kinghorn	1 <i>½d.</i> per pound on rental, trade, &c., according to estimation of circumstances.
Kilrenny	No rate; same rule as Cupar.
Pittenweem	Ditto ditto.
St. Andrews	1 <i>d.</i> per pound of rental.
Baronies:	
Wemyss	No rate; levied according to Stentmaster's estimation.
Leven	Ditto ditto.
Dunnikier, or Path-head.	Tax paid out of (the common good) public fund of the feuars.
Linkater	No rate; same rule as Cupar.
Elie	Ditto ditto.
Limekilns	Ditto ditto.
15. Forfarshire:	
Forfar Burgh.....	$\frac{1}{2}$ of a penny on 1 <i>l.</i> sterling of rent of property, and $\frac{1}{4}$ of a penny on 1 <i>l.</i> sterling of trade.
Brechin	1 <i>½d.</i> per 1 <i>l.</i> sterling, partly on heritage, and means of substance.
Dundee	1 <i>½d.</i> per pound on rental, and on trade according to estimation of circumstances.
Arbroath.....	$\frac{2}{3}$ of the amount from property, and $\frac{1}{3}$ from trade, and 1 <i>½d.</i> per pound of rental.
Montrose.....	1 <i>s.</i> 2 <i>½d.</i> for every 100 <i>l.</i> sterling of rental.

Cities, Boroughs, and Towns.	Average Rate per Pound.
16. Haddingtonshire :	
Haddington Burgh ..	1½ <i>d.</i> per pound.
Dunbar	1½ <i>d.</i> per pound.
Preston Pans	½ <i>d.</i> per pound.
North Berwick	Fixed sum ; paid by proprietors.
17. Inverness-shire	
Inverness Burgh	1½ <i>d.</i> per pound.
18. Kinross-shire :	
Kinross	Nil.
19. Kincardineshire :	
Stonehaven Burgh ..	1 <i>d.</i> per pound on rental.
Bervie	2 <i>d.</i> per pound on rental.
20. KirkcudbrightStewartry:	
Kirkcudbright Burgh.	Fixed sum ; paid from common good.
New Galloway	Ditto ditto.
21. Lanarkshire :	
Glasgow City.....	1½ <i>d.</i> per pound of rental.
Rutherglen Burgh ..	No rate ; paid by proprietors.
Lanark	Ditto ditto.
22. Linlithgowshire :	
Linlithgow Burgh ..	2½ <i>d.</i> per pound of rental.
Boness	2 <i>d.</i> per pound of rental.
Queensferry	2½ <i>d.</i> per pound of rental.
23. Nairnshire :	
Nairn Burgh	⅓ of 1 <i>d.</i> per pound.
24. Orkney :	
Kirkwall Burgh	4 <i>d.</i> per pound of rental.
25. Peebles-shire :	
Peebles Burgh	10 <i>d.</i> per pound of rental.
26. Perthshire :	
Perth City	2½ <i>d.</i> per pound of rental, and a sum of 57 <i>l.</i> laid on parties in trade by the Stentmasters appointed by the Magistrates.
Culross Burgh	1½ <i>d.</i> per pound of rental, and assessment on trade according to estimated means, at 3 <i>d.</i> , 4 <i>d.</i> , and 6 <i>d.</i>
Dounne	Fixed sum paid by Superior.

Cities, Boroughs, and Towns.	Average Rate per Pound.
27. Renfrewshire:	
Greenock Town	Paid out of the common good.
Renfrew Burgh	Ditto ditto.
28. Ross-shire:	
Dingwall	Levied from the heritors on some victual-valuation of old date, at about $3\frac{1}{2}d.$ per boll.
Tain	No rate; paid out of common good.
Fortrose	Ditto ditto.
29. Roxburghshire:	
Jedburgh	$1\frac{1}{2}d.$ per pound on rental.
30. Selkirkshire:	
Selkirk Burgh	$\frac{1}{2}$ of $1d.$ per pound on rental.
31. Shetlandshire:	
Lerwick	Nil.
32. Stirlingshire:	
Stirling Burgh	3 per cent. upon the rental of the properties charged, under agreement between the Magistrates and the Inhabitants.
Grangemouth	$\frac{1}{2}d.$ per pound upon proprietors, and $\frac{1}{2}d.$ per pound upon occupiers of property.
St. Ninian's	No rate; paid by Superior.
33. Sutherlandshire:	
Dornoch	No rate; paid by Superior.
34. Wigtonshire:	
Stranraer	No rate; paid from common good.
Wigton	Ditto ditto.
Whithorn	Ditto ditto.

APPENDIX.

I.—FORM OF DECLARATION.

No. 129.

REDEMPTION OF THE LAND TAX.

NOTE.—All persons having any estate or interest in the premises (except tenants at rack rent, or holding under the Crown) may contract for the redemption of the Land Tax.

Where persons having an estate or interest, other than that of inheritance, redeem the Land Tax out of their own property, the estate becomes chargeable for the benefit of them and their assigns, with the amount of the consideration paid for such redemption, and with an annuity equal to the Land Tax redeemed.

The parties receiving this notice, if not entitled to redeem the Land Tax charged on the premises in their occupation, are requested to deliver the same to the persons entitled to contract for that purpose.

To

You are desired to take notice, that, pursuant to the Act of Parliament (53 Geo. III. c. 123), all corporations, companies, and persons entitled to redeem the Land Tax charged on their respective messuages or lands, being

desirous so to do, may apply to the Clerk to the Commissioners of Land Tax in the division or place where the Land Tax is charged, with a full description of the lands charged, the boundaries thereof, or number on the tithe map, for a certificate of the amount proposed to be redeemed, to be taken from the assessment in the current year, and declare to the said Clerk their intention to redeem the same, and the mode and terms of contracting for the redemption thereof, according to one of the forms hereinafter mentioned, by filling up and signing, by themselves or by some agent, on producing his authority in writing, on their behalf, in the presence of the said Clerk (a), the form of declaration thereunto subjoined, according to the directions herein contained.

Which certificate and declaration the said Clerk will, without delay, transmit to the Commissioners authorized to enter into the contract, without further trouble or expense to the parties; and the Commissioners will, provided the papers be found sufficient, give them notice of having entered into the contract, whereby they will be fully informed of the times and amount of each transfer of Stock or payment of money to be made by them, and of every other particular necessary to complete such contract. No payment of money can be legally made or received except under such notice, and except to the officer named therein. *The contract so entered into will, under the provisions of the said Act, be binding upon the party signing the declaration, and the Land Tax will be exonerated from the*

(a) Note.—*The Act of Parliament does not authorize the declaration in any case to be attested by an ASSISTANT Clerk.*

quarter-day preceding the day of payment or transfer of the consideration.

No person is authorized to charge the public with any fee for certificates of assessments or other proceedings in the redemption of Land Tax.

MODES and TERMS of REDEMPTION of LAND TAX authorized by the said Act.

TRANSFER OF STOCK, A, No. 1 (a).

Where the consideration of the contract is intended to be by TRANSFER OF STOCK to answer the whole consideration at *one time, or by instalments within two years.*

The Stock to be transferred must be either in the Three Pounds per Centum Consolidated Bank Annuities, or in the Three Pounds per Centum Reduced Bank Annuities, and must be so much Stock as to yield an interest or dividend less by seventeen and a half per cent. than was required by the Act 42 Geo. III. c. 116.

FORM OF DECLARATION, A, No. 1.

I (or we) do declare, that I (or we) am (or are) desirous of redeeming the Land Tax contained in the annexed certificate, in the mode and on the terms above described and marked A, No. 1. The consideration thereof to be

(a) Seldom used, see pp. 82, 115, and 116.

transferred as follows, *viz.*, by one instalment on or before the day of (or) by four half-yearly instalments as the Act directs.

Witness my hand (or our hands) this day of
18 .

*Vide
Note,
Page
104.

Signed in the presence of _____
Clerk to the Commissioners
of Land Tax for the
of _____ in the County of _____

Signed, _____

SALES, MORTGAGES, OR GRANTS.—*Note. When the consideration for the redemption of Land Tax is intended to be raised by sale, mortgage or grant of any entailed estate, or any ecclesiastical or trust property, and the sum so raised shall exceed 500*l.*, the Form of Declaration, A, No. 1, must be filled up and signed, as the Acts require that in such cases the money shall be paid into the Bank of England and invested in the purchase of Parliamentary Stocks or Annuities to be transferred in satisfaction of the contract for the redemption of the Land Tax.*

PAYMENT IN MONEY, A, No. 2.

Where the consideration of the contract is intended to be by PAYMENT IN MONEY in *one sum*, or *by four equal instalments within two years*.

The consideration must be paid in money to the receiving

officer of your district, and the money to be paid must be sufficient to purchase so much stock, either in the Three Pounds per Centum Consolidated Bank Annuities, or the Three Pounds per Centum Reduced Bank Annuities, as will yield an interest or dividend less by seventeen and a half per cent. than was required by the Act 42 Geo. III. c. 116.

If the payment is to be made at one time, the amount thereof is to be ascertained according to the price of stock in the second week after the date of the contract.

Example.—Assuming the Land Tax intended to be redeemed be 1*l.*, and the price of Stock 100 and under 101, the consideration for redemption will amount to 30*l.* 8*s.* 9½*d.*

And if by instalments, then the consideration must be paid in money to the receiving officer of your district by two payments in each year, at or before the next receipt after each instalment shall become due; and each payment will be of so much money as will be necessary to redeem one-fourth part of the Land Tax, by a purchase in stock of so much as will yield a dividend less by seventeen and a half per cent. than was required by the Act 42 Geo. III. c. 116.

The first instalment will be ascertained by the price of stock in the second week after the date of the contract; and the second and subsequent instalments by the price of stock in the week preceding the respective days of payment, viz., the 29th day of September and the 25th day of March yearly.

By Instalments, exceeding Two Years.

FORM OF DECLARATION, A, No. 1.

in years.

Witness my hand (or our hands) this day of
 . 18 .

*Vide Signed in the presence of
Note, ,
Page
104. Clerk to the Commissioners
of Land Tax for the
of in the County of

Signed,

(b) Seldom used, see pp. 82, 115, and 116.

By Instalments, exceeding Two Years.

Where the consideration of the contract is intended to be by PAYMENT IN MONEY within any period *exceeding two years and not exceeding sixteen years*, the period to be regulated by the amount of the consideration : The money to be paid in any year must not be less than 60% money. For instance, if the whole consideration amounts to 960%, the period may be sixteen years ; if less, and it amounts to 900%, in fifteen years, and so downwards ; but any period within the limit above mentioned may be chosen by you. If you redeem after the receiving officer's receipt following the 10th day of October, the amount of two instalments must be paid at one time for the first year.

I (or we) do declare, that I (or we) am (or are) desirous of redeeming the Land Tax in the annexed certificate in the mode and on the terms last above described, and marked B, in years.

Witness my hand (or our hands) this day of
 , 18 .

*Vide
Note,
Page
104.

Signed in the presence of _____,
Clerk to the Commissioners
of Land Tax for the
of _____, in the County of _____

Signed, _____

II.—(ORDINARY CERTIFICATE OF CLERK TO COMMISSIONERS.)

No. 130.

REDEMPTION OF LAND TAX.

FORM of the CERTIFICATE of the amount of the LAND TAX,
and the Lands upon which it is assessed.

* If the contractor is not named in the assessment as proprietor, his interest in the property must be stated.

WHEREAS* now residing at
in the parish of in the county of
has represented to me that he is desirous,
under the provisions of the several Acts of
Parliament relating to the redemption of the
Land Tax, to redeem the Land Tax charged
on certain lands and premises in the
in the division of in the county of
described by him as follows, *viz.*†

† Here insert the description of the premises, giving the area and boundaries, or numbers on the tithe map.

N.B.—The Land Tax should be certified according to the assessment of the *current year*, if the same is made and signed, but if
(c) not according to that of the preceding year, in which case the contract will be subject to amendment, if the amount of the

I Clerk to the Commissioners of
Land Tax for the division of in the
county of do, in pursuance of the directions contained in the said Acts, hereby
certify that the said premises stand charged

(c) See p. 82, and last para. in p. 118.

Land Tax should be altered by the assessment for the current year, *vide* Act 58rd Geo. III. cap. 123, sect. 20. in the assessment for the of in the division of in the county of for the year 18 , as follows, *viz.*

[illegible]

Given under my hand this day of 18

Signed



III.—(COMMISSIONERS' CERTIFICATE OF APPORTIONMENT.)

No. 2.

REDEMPTION OF LAND TAX.

* Here insert the description of the premises.

If the party who proposes to redeem is not named in the assessment as proprietor, state what interest he has in the property.

At a Meeting of the Commissioners of Land Tax, acting in and for the Division of , in the county of , held at , in , within the said Division, this day of , 18 .

WHEREAS , now residing at , in the parish of , in the county of , hath represented to the Commissioners of Land Tax acting for the Division of , in the county of , that he is desirous, under the provisions of the several Acts of Parliament relating to the redemption of Land Tax, to redeem the Land Tax chargeable on certain lands and premises in the of , in the said division and county, described by him as follows, viz.*

(d) N.B. — The Land Tax should be certified according to the assessment of the current year, if the same is made and signed, but if not, according to that of the preceding year, in which case the contract will be subject to amendment, if the amount of the Land Tax should be altered by the assessment for the current year, vide Act 53rd Geo. III. cap. 123, sect. 20.

AND WHEREAS a difficulty has arisen in the redemption of Land Tax which ought to be charged on the said lands and premises, by reason of such lands and premises not having been distinctly assessed to the Land Tax, the

(d) See p. 82. There is a further advantage in postponing a Redemption based upon an assessment on property not separately charged to Land Tax, because in the new assessment the property to be exonerated can then be distinctly charged, and so avoid the necessity for an apportionment.

same being assessed in the assessment for the said of for the year 18 , together with other lands and premises, as follows, *viz.* :—

No. of Assessment.	Names of Proprietors.	Names of Occupiers.	Names and Description of Properties charged.	Rentals or Annual Values assessed.	Sums assessed and not exonerated, at ——— in the £.	Proportion of Land Tax ascertained, settled, and adjusted by the Commissioners at their Meeting of the ——— 18—.

AND WHEREAS the said has applied to us to settle and adjust the proportion of Land Tax which ought to be borne and paid by the said in respect of the said lands and premises so not distinctly assessed to the Land Tax. We do hereby certify, that in pursuance of the powers vested in us by the 35th section of the Act 42nd Geo. III. cap. 116, we have ascertained, settled, and adjusted the proportion of Land Tax which ought to be borne and paid by the said in respect of the lands and premises aforesaid, at the total sum of , the particulars of which are set forth opposite to each sum of Land Tax charged in the original assessment.

GIVEN under our hands this day of , 18 .

REDEMPTION OF LAND TAX.

INSTRUCTIONS for the guidance of Clerks to Commissioners in taking Declarations and preparing Certificates under the Land Tax Redemption Acts.

All persons having any estate or interest in the premises assessed (except tenants at rack-rent or under the Crown) may contract for redemption of the Land Tax.

AS TO DECLARATIONS.

FORM A, No. 1.
—Transfer of
Stock.

(See p. 82.)

1. Redemptions are rarely effected by the transfer of stock, owing to the expense and trouble incurred thereby. The contractor should not, therefore, be allowed to sign this form, unless upon explanation he desires to carry out the redemption in that manner. When, however, the consideration is intended to be raised by sale, mortgage, or grant of any entailed estate or any ecclesiastical or trust property, and the sum so raised shall exceed 500*l.*, this form only can be used.

FORM A, No. 2.
—Payment in
Money.

2. The Form of Declaration, A, No. 2, for the payment of the consideration in money, is the form now generally adopted; and the

most convenient mode of effecting redemptions to the contractors is by payment of the consideration in one sum.

FORM A, No. 1.
—Transfer of
stock by instal-
ments exceed-
ing two years.

FORM B.—Pay-
ment in money
by instalments
exceeding two
years.

Redemptions
effected
through an
agent.

Clerks to Com-
missioners
redeeming.

3. The first of these forms is never used and the second very rarely. The terms of redemption to which these forms relate entail on the contractor considerable trouble without any corresponding advantage, and tend to create difficulties in the event of his requiring to sell the property, or any portions thereof, before all the instalments are transferred, or paid, as the case may be.

4. If application to redeem is made by an agent (except in cases where companies are represented by their recognized officers), that fact should appear after his signature to the declaration, together with his address, and his authority for acting as such should be in writing and signed by the contractor. It should be delivered to the Clerk to the Commissioners, and by him annexed to the declaration.

5. If a Clerk to Commissioners is desirous of exonerating property of which he is the proprietor in his own division, his signature to the declaration must be attested by a Land Tax Commissioner of the division.

Note.—In no case can a declaration be attested by an Assistant Clerk.

AS TO CERTIFICATES.

Form No. 130.
—Names, addresses, &c., of contractor.

Description of property.

Plans.

If used must be in duplicate, and made exhibits.

If proprietor not named in assessment, his interest must be stated.

Description of property.

If not properly described, the assessment should be amended.

1. The certificate should set out the contractor's christian and surname in full, and also his style or title, and place of residence.

The property should be described in such a manner that its identification may be insured at any future time, and with that view the quantity of land, and the boundaries thereof, or numbers on the tithe commutation map of the parish, should be stated. Plans have been found to be the most perfect method of identification. If resorted to they must be in duplicate, and after being made exhibits, should, with the certificate, be transmitted to this office, in order that one may accompany the contract and the other be attached to the Registry.

2. If the person who proposes to redeem is not named in the assessment as proprietor, his interest in the property must be stated.

3. In certifying the assessment care should be taken that there is no discrepancy between the description given of the property in the preliminary portion of the certificate and in the transcript from the assessment. If, therefore, the assessment does not properly describe the property it should be amended, so that a proper certificate on which a contract can be based may be forwarded to the Registrar of Land Tax.

As to redemptions effected after the 25th of March in any year, and before the new assessment is made.

4. If a person is desirous of contracting for the redemption of Land Tax after the 25th March in any year, and before the assessment for that year is made, the charge on the property according to the previous year's assessment must be certified. The consideration for the Redemption will, however, be governed by the amount of the assessment for the current year. The property must, therefore, be included in the new assessment, and when the same has been signed the Clerk should forward to the Registrar his certificate of such assessment, upon receipt of which the contract will be registered in the event of there being no alteration in the amount of the charge. If the charge has been reduced, a proportionate amount of the consideration will be returned to the contractor, and if it has been increased, the Registrar will communicate with him in order to ascertain whether he be willing to pay the additional consideration, or whether he would prefer having the contract cancelled, and the money paid by him refunded.

If, however, at the time of the application to redeem, the assessment for the current year is being made, or will shortly be made, it is desirable that the intending contractor should be advised to defer the redemption until such assessment is completed.

Clerks to Commissioners redeeming.

5. In the case of a redemption by a Clerk to the Commissioners, the certificate must be signed by two of the Commissioners of the division.

Form No. 2.—
Apportionment.

6. Where a person wishes to redeem the Land Tax on a portion only of any property which is charged by the assessment in one sum, this form must be used; and before the certificate is granted the Commissioners must apportion the charge in the manner prescribed by sect. 35 of 42 Geo. III. c. 116.

(See p. 113, *note*.)

By Order of the Commissioners of
Inland Revenue,

LAND TAX REDEMPTION OFFICE,
INLAND REVENUE,
SOMERSET HOUSE, LONDON.

JUDGMENTS.

**REG. v. LAND TAX COMMISSIONERS FOR THE TOWER
DIVISION.**

[*Court of Queen's Bench, June 25, 1853. Reported 2 E. & B. 694.*]

See p. 23, note (h).

LORD CAMPBELL, C. J., now delivered the judgment of the Court (a) :

“This mandamus, reciting that the assessments to the Land Tax on the parishes and places within the Tower Division were unequal in proportions varying from 6*d.* in the pound to 2*s.* 7*d.* in the pound, commanded the Commissioners for that division to cause the Land Tax charged therein to be equally assessed in those parishes and places. The return stated that the proportions complained of were in the judgment of the Commissioners according to law. And the verdict finds that the assessments to the Land Tax on those parishes and places have been in those proportions from the year 1693 to the present time. And so the question is raised, Whether those proportions are contrary to law.

“For the prosecutors, it was argued that the duty of the Commissioners is regulated by stat. 38 Geo. III. c. 5, s. 8, commanding them to cause the sums fixed for their divisions to be *equally* assessed within the parishes or places therein, according to the best of their judgment; that they had knowingly caused those sums to be un-

(a) Consisting of Lord Campbell, C. J., Wightman, Erle, and Crompton, JJ.

equally assessed within those parishes and places, contrary to the statute; and that they were not justified in thus violating a clear enactment by the usage stated in the verdict. But we are of opinion that this argument fails; on the ground that the duty of the Commissioners, in causing the districts of their divisions to be assessed, is not regulated by stat. 38 Geo. III. c. 5, s. 8, granting an aid under the name of Land Tax for the year 1798, but by stat. 38 Geo. III. c. 60, making perpetual a part of that Land Tax so granted for a year, and effecting a change both in the nature of the tax and in the mode of assessing it.

“In support of this opinion, we proceed to show: 1st, the nature of the Land Tax under stat. 38 Geo. III. c. 5, and then the change made by stat. 38 Geo. III. c. 60, and the other statutes made in furtherance thereof.

“By stat. 4 Wm. & Mary, c. 1, the parliament granted an aid of 4s. in the pound upon all property; which, for our present purpose, we class under the heads of personal property, salaries and land: and provisions were made for the effective assessment of these three kinds of property. Under these provisions the kingdom became parcelled into divisions for which separate Commissioners acted; and these divisions became parcelled into parochial and other districts, for which separate assessors acted. And, in this judgment, we have thought it best to use ‘division’ and ‘district’ to denote these meanings; for we have felt that the want of two such terms in the statutes on this subject has made the subject less clear than it might be. Under stat. 4 Wm. & Mary, c. 1, the assessments for the

districts, showing the quota to be paid by each, were to be returned by the assessors to the Commissioners; and the Commissioners were to make duplicate copies of all the assessments in their division, one for the Receiver General and one to be returned to the Remembrancer in the Exchequer, showing the quota to be paid by the division and the quota to be paid by each district of the division; the aggregate of the quotas for the divisions giving the total produce of the tax.

“In the early part of this reign, grants of aids were repealed [*sic*, repeated], varying slightly in name and form, the inappropriate name of Land Tax not at first appearing in the title of the Acts, and the form at first being for a pound rate on all the rateable subjects. Ultimately these grants resulted in an annual grant of a fixed sum, called ‘an aid by a Land Tax.’ That sum was charged by the statute in fixed proportions upon the different divisions; and these proportions appear to have been taken from the duplicates of the assessments returned under stat. 4 Wm. & Mary, c. 1.

“We find no enactment dividing the fixed proportion of the division in fixed proportions among the districts thereof, so as to give a statutable sanction to the usage in that respect, which is found by the verdict to have been followed from 1693 to the present time in this division. On the contrary, the Commissioners are directed to cause the fixed proportion for the division to be levied by causing the personalty and the salaries to be assessed in each district at four shillings in the pound, and the land in each district to be so assessed, by an equal pound rate, as that the produce of the rate on the land, when added to

the produce of the other rate of four shillings in the pound, should make up the fixed proportion for the division. It is obvious that, if this direction had been followed, the amount to be charged on the land was contingent on the annual produce by the other rate; and that, as the value of personal property and salaries increased, the amount to be raised from the land would be lessened and might entirely cease.

“ Stat. 38 Geo. III. c. 5, is in the accustomed form : and the direction to the Commissioners for assessing is to the effect contended for by the prosecutors : and that direction does not seem to support the usage which, according to the verdict, has prevailed in this division from 1693 to the present time. That usage may be accounted for : because, for some years after 1693, an effective valuation in that year would remain substantially correct ; and, after those years, the usage may have remained unquestioned, or been preferred to an annual valuation and assessment founded thereon. In our present judgment, it is not necessary to decide on the origin or the legality of this usage : but the law for assessing to the Land Tax, and the mode of executing that law prevailing in 1798, should be understood for the sake of understanding the change introduced in that year by stat. 38 Geo. III. c. 60, to the consideration of which we now proceed.

“ The object of the Legislature, in passing this statute, was to support the public credit by making a part of the national debt a charge upon the land. The statute passed in June, 1798, while the assessments under stat. 38 Geo. III. c. 5, were in the course of being made ; for by that statute

the process for assessing is to begin after the 30th of April, 1798, and the duplicates of the completed assessments are to be returned by the 8th of August, 1798: the assessors of the districts are, by this statute, directed to divide their assessments. Thus, in the course of formation into the three heads of property before mentioned, namely personalty, salaries and lands, so much of the assessment for that year as should charge the land is made a perpetual charge thereon, subject to redemption in the manner and with the limitations explained more particularly after we have considered the effect of this process on the two other heads of property subject to assessment. As the land was before subject to a contingent amount, depending upon the produce from the other sources, and would for the future be charged with a fixed sum, it became necessary to alter the mode of charging those other sources in the future annual grants of a tax on them. And accordingly we find, in stat. 39 Geo. III. c. 3, passed in December, 1798, for granting the tax on those heads for 1799, that the Commissioners are no longer directed to apportion the fixed proportion for their division among the districts, and to cause the proportion for each district to be levied by a rate of four shillings in the pound on the personalty and salaries, and the residue on the land: but, the assessments of the districts for 1798, under stat. 38 Geo. III. c. 5, being assumed to be divided under the heads of land, personalty and salaries, and the quota in that assessment for each district upon land to be disposed of by stat. 38 Geo. III. c. 60, then the quota in the same assessment for each district upon personalty is taken to be a fixed quota for that district under that head, and is to be

levied, not by a tax of four shillings in the pound, but by an equal pound rate upon that district, sufficient to raise that fixed quota. And, with respect to the quota for salaries in the assessment 1798 for each district, the district is discharged therefrom; but the salaries are to be charged where the office is executed, at a rate not less than the rate in the assessment of 1798; and some annuities under this head, payable at the Exchequer, are made liable to four shillings in the pound at the place of payment. This arrangement, fixing a quota for each district in respect of personalty, is enacted by the earlier sections of the statute. And sect. 8 provides for a deficiency in the collection, from inability to pay, or from mistake or otherwise, by giving the Commissioners a power to make a re-assessment on the place in which the defect occurs as shall seem agreeable to justice: and it is also provided that the assessment is not to exceed four shillings in the pound. It is thus apparent that the Legislature, after stat. 38 Geo. III. c. 60, treated the fixed proportion of the division as apportioned among the districts thereof in a fixed quota for each district. In respect of personalty, it also treated the quota theretofore assessed on each district in respect of salaries as in one sense fixed; for it transferred that charge from the district to the place of the office, and so exempted the district therefrom. And thus the duty imposed on the Commissioners, by stat. 38 Geo. III. c. 5, as to causing personalty and salaries to be equally assessed throughout the districts of their divisions, was at an end; and the quota for each district as to personalty, under stat. 39 Geo. III. c. 3, became fixed by

reference to the assessment for 1798, nearly to the same extent as the quota for each division had become fixed by reference to the assessment under stat. 4 Wm. & Mary, c. 1.

“We are thus brought to the point governing the present case: namely, the duty of the Commissioners, after stat. 38 Geo. III. c. 60, in respect of causing the lands of their division to be assessed to the Land Tax on land.

“The prosecutors contend that their duty remained as it was enacted by stat. 38 Geo. III. c. 5, to cause so much of the fixed proportion for the division as was charged on land to be assessed equally by rates on all the lands of the several districts of the division. But it appears to us that stat. 38 Geo. III. c. 60, created a fixed quota to be raised from the land of each district, and that the sections we are about to mention produce that effect.

“By sect. 1 it was enacted that the several and respective sums charged, by virtue of stat. 38 Geo. III. c. 5, on the divisions of Great Britain, in respect of the lands therein, for one year, should continue and be raised yearly for ever, subject to redemption. If the effect of this section had not been altered by those that follow, a quota would have been fixed for each estate which formed the subject of a separate charge in the assessment for 1798. By sect. 2 personalty and offices are exempted from the operation of that Act. By sect. 3 the sums charged or to be charged in the assessments then being made, under stat. 38 Geo. III. c. 5, on personalty and offices are to be separated and divided from the remainder of the moneys charged in the assessment for each district, and are to be

so returned in the duplicates of such assessments to be transmitted by the Commissioners to the Exchequer. By sect. 8 it was made lawful for the Commissioners to contract with persons having a preference, as owners or otherwise, in respect of any lands, for the redemption of the Land Tax charged thereon, according to the assessment made or to be made under stat. 38 Geo. III. c. 5. This power of redemption applies to the quota charged upon the particular lands, the subject of the contract. By sect. 68 it was enacted that, after 25th March, 1799, the Commissioners might sell to persons not entitled to any such preference the whole or any part of the Land Tax remaining unsold. This again applies to the quota for each particular estate in the assessment for 1798. Then, by sect. 74, it is enacted that the whole of the Land Tax charged on any district shall, notwithstanding the discharge of any part thereof, continue to be inserted in the certificate of assessment to be signed by the Commissioners of Land Tax, so long as any part of the proportion of Land Tax charged in such district shall remain payable; and that all lands that shall not be exonerated by virtue of this Act from the Land Tax shall continue subject to a new yearly assessment, by an equal rate, according to the annual value, not exceeding four shillings in the pound; and that such part of the said Land Tax which shall remain payable as aforesaid in any district shall be levied in the same manner as if the lands charged with the Land Tax so remaining payable as aforesaid formed an entire district, and according to such methods as are prescribed by the Act of the present sessions with

respect to the quota of each district. It is under this section, which is re-enacted by stat. 42 Geo. III. c. 116, s. 180, that the Commissioners act in causing the yearly assessment to the Land Tax on land to be made; and their duty is created and regulated thereby: and the section, in our understanding of it, directs that the quota for the land of the district on the assessment of 1798 made for that year under stat. 38 Geo. III. c. 5, should be assumed as a fixed quota for the district, subject to small variations mentioned below, and subject to redemption: and it further directs an annual assessment to raise the unredeemed part of that quota from the unredeemed part of the land of the district. It seems to us that the quota, here taken to be fixed for the land of the district as the quota for personalty, was in express terms enacted to be fixed by stat. 39 Geo. III. c. 3; and the same express enactment was not used in the case of land, because the enactment was to be adapted in that case to the process of redemption, which did not apply to personalty. It further seems to us that the reference to the quota for the district fixed 'by the Act of the present Session of Parliament' referred to stat. 39 Geo. III. c. 3, and not to stat. 38 Geo. III. c. 5, as is expressed in stat. 42 Geo. III. c. 116, s. 180; because there is no fixed quota for the district in stat. 38 Geo. III. c. 5; and, although the Act is referred to as 'of the present session,' and did not pass till the next session, yet, as stat. 38 Geo. III. c. 60, passed at the close of that session and stat. 39 Geo. III. c. 3, passed at the beginning of the following session, the first being in June, 1798, and the second in December, 1798,

and as the two Acts are one arrangement for future Land Tax rendered necessary by the redemption of the Land Tax on land, we think it probable that stat. 39 Geo. III. c. 3, was proposed at the same time as stat. 38 Geo. III. c. 60, and expected to pass with it, and so was referred to by the above description, which became inapplicable, as it was postponed till after the recess of 1798. But, whether we are right in this supposition or not, we think that the true construction of the section now in question is as above explained.

“ The subsequent enactments, providing both for variations rendered necessary either by change of value or on account of mistakes, and for other purposes, confirm this view.

“ Thus, by stat. 38 Geo. III. c. 60, s. 103, if any assessment which shall continue to be charged in pursuance of this Act shall be found to exceed four shillings in the pound, there may be abatement in the manner in such case directed in the said Act of the present session, by which we understand stat. 39 Geo. III. c. 3, for the reasons before given. And, by stat. 38 Geo. III. c. 60, s. 105, when in any parish or place separately assessed to the Land Tax (that is district) the whole of the Land Tax charged thereon is redeemed, all assessment in that district shall cease.

“ Stat. 39 Geo. III. c. 6, s. 15, gives some recognition to past usage, as guiding in the assessment of districts in 1798; for it enacts that, where the sums assessed in that year under stat. 38 Geo. III. c. 5, are greater or less than the sum *which has been imposed on such parish or place in*

respect of such lands, on complaint the Commissioners may ascertain the *sum which has been* set on such district ; and, in case of doubt, the certificate of the Remembrancer of the Exchequer, or of the Barons in Scotland, after inspecting duplicates returned for twenty years, is to be decisive. Sects. 16, 17 provide for lands omitted: they may be assessed, and a proportion deducted from the assessment on the other lands of the district.

“Stat. 42 Geo. III. c. 116, repeals part of stat. 38 Geo. III. c. 60, but not the part continuing for ever the several and respective sums charged in the assessment for 1798, and the powers in that Act contained for putting the same in execution. Sect. 180 provides for a continued assessment of the district, as long as any part of the Land Tax charged thereon remains unredeemed, in the same terms as sect. 74 of stat. 38 Geo. III. c. 60, except that the reference therein to the quota for each district under the Act of the then session of parliament, which we have applied to stat. 39 Geo. III. c. 3, is applied to stat. 38 Geo. III. c. 5. But of this we have spoken before.

“Stat. 6 Geo. IV. c. 32, s. 1, making provision for the assessment exceeding the fixed quota for each district, and stat. 2 Wm. IV. c. 127, making provision for the transfer of districts from one division to another, with their fixed quota, and stat. 4 & 5 Wm. IV. c. 60, s. 1, for transferring districts with assessments from one division to another, and stat. 5 & 6 Vict. c. 37, also for transferring districts or portions of districts from one division to another, with the amount charged thereon, are consistent with our present judgment, and support it, and cannot easily be reconciled with the prosecutors’ case.

“To this review of the statutes is to be added the long usage found by the verdict, and the important interests dependent thereon. If the words of the statute are clear, considerations from this source cannot alter their effect: but, if the words are capable of two constructions, public convenience ought to be regarded in considering the probable intention of the Legislature.”

Judgment for the defendants.

LORD COLCHESTER AND OTHERS v. KEWNEY.

[*Exch.* June 26, 1866: reported 1 *L. R.*, *Ex.* 368.]

(*p.* 30, *note.*)

The judgment of the Court (Pollock, C. B., Martin, Bramwell, and Channell, BB.) was delivered by

CHANNELL, B. “The question for our decision in this special case is, whether the site of the Royal Victoria Patriotic Asylum is liable to be assessed to Land Tax. Exemption is claimed by the plaintiffs, who are the trustees of the asylum, on two grounds; first, that this asylum is a hospital, and therefore exempt by the 25th section of the 38 Geo. III. c. 5; secondly, that it is Crown land, and therefore exempt. On the part of the defendant these propositions are disputed, and it is further contended, that even if this were a hospital within the meaning of that word in the section in question, yet it was not in existence in the thirty-eighth year of Geo. III., and that the exemption only extends to institutions then existing.

“The facts are fully set out in the case, and it will not be requisite further to refer to them. It will, however, be necessary to examine the statutes imposing the Land

Tax, to show how the law now stands, and the successive changes that have been made.

“The tax appears to have been first imposed as an annual tax in the time of William and Mary, and to have been continued by several successive Acts of Parliament. Those Acts imposed, not only the tax now known as the Land Tax, but also a tax on personal property and salaries, somewhat analogous to the present income or property tax, and from the time of the 4 & 5 of Wm. & Mary, they contained a clause exempting hospitals from its operation, in somewhat similar terms to that hereafter referred to. These annual Acts appear to have been passed in much the same terms until 1797, the date of 38 Geo. III. c. 5, the last annual Act.

“The 25th section of that Act provides, that nothing in the Act shall extend to charge any college or hall in either university, or certain colleges named, or the corporation of the sons of the clergy or the college of Bromley, ‘or any hospital in England, Wales, or Berwick-upon-Tweed, for or in respect of the sites of the said colleges, halls, or hospitals, or any of the buildings within the walls or limits of the said colleges, halls, or hospitals.’ The section then proceeds to provide for the exemption of persons connected with such institutions from the tax on their salaries, and also for the exemption of lands which, in 1693 (the date of the Act 4 Wm. & Mary), had formed part of the site of any college or of certain specified institutions, and also that the Act should not charge ‘any other hospitals or almshouses,’ in respect of lands the rents of which in 1693 had been applicable solely to the relief of the inmates.

“Now the first question that arises is, whether, if this asylum had been in existence at the passing of this Act, the trustees could have claimed exemption. It is objected that they are not incorporated, and that there can be no hospital without incorporation, and no doubt the old authorities tend to show that an hospital must be incorporated. But they show something more, for Lord Coke says, in Sutton’s case, that there is no legal hospital except where the poor persons benefited are themselves incorporated; and he says that where the corporate succession is vested in trustees to effectuate the purposes of the institution, that is no legal hospital. It seems, however, tolerably clear that a legal hospital in that sense is not meant, when the word *hospital* is used in this section; for, towards the end of the section, the words ‘other hospitals’ are followed by the names of some particular hospitals, some of which seem not to be incorporated in such a manner as to make them legal hospitals under this definition. If, then, we understand that the word *hospital* in the section does not mean strictly a legal hospital, is there any reason for supposing there need be any corporation at all? It seems rather more reasonable to hold that the word is used in a popular sense only, and that any institution which, though not in a strictly legal, might in a popular, sense be called a hospital, might claim exemption. But some doubt may arise whether, even upon this view, this institution would be a hospital, by which word we understand rather an institution for the relief of the sick or aged than for the maintenance and education of children. We do not speak of a hospital for orphans.

“ Upon the whole, we are inclined to think that, if the institution had been in existence at the time of the passing of the Act 38 Geo. III. c. 5, it might have claimed exemption. But this is not so clear as to make it unnecessary to consider the position of a subsequently founded hospital of this character, and the course of the subsequent legislation. In the same session (38 Geo. III.) was passed another Act (c. 60), which enacted that the sums charged by the previous Act (c. 5) on counties, towns, and places, in respect of land within the same, to be raised, levied, and paid within a year, should be raised, levied, and paid yearly for ever; and the several powers, provisions, clauses, &c., of the former Act should, except as in the second Act altered or varied, be in full force as if repealed and re-enacted in that Act; but that all this should be subject to redemption, as therein provided. By subsequent statutes the provisions for redemption were from time to time altered, repealed, re-enacted, and consolidated; but the scheme remained the same, and the alterations were principally of the machinery and regulations for carrying it into effect.

“ Now, one object of the Legislature in passing the Act was to support the public credit by imposing a fixed charge on land, on the strength of which money could be borrowed, and to relieve the country of a portion of the existing debt on advantageous terms. Provision was made for redemption of the tax by transferring to the Commissioners for the Reduction of the National Debt a sum in consols, the income of which should exceed by one-tenth the tax to be redeemed. At this time the funds were

greatly depreciated as compared with other securities, and especially with land. A permanent charge of 10% a year upon land would, therefore, be of greater value in the market than a sum producing 11% a year in the funds. It would, therefore, if the then imposed tax was to be permanent, be to the interest of landowners to redeem; and upon their doing so the revenue would be benefited to the extent of one-tenth of the tax redeemed. It was, therefore, the policy of the Legislature to encourage redemption. That this was so we see from the extensive powers given to persons having a limited interest only to raise money to redeem the tax; from other inducements held out to landowners to redeem, and from the fact that, upon refusal of the owners, third persons might purchase the tax, retaining it as a charge payable to themselves. But no one would have redeemed the tax unless it had been made a permanent charge upon the land, not likely ever to be much less in amount, and not to be got rid of except by redemption. If that were the case, the redemption would naturally increase the market value of the land, and would do so, as we have shown, to a greater extent than the sum required to be expended in the redemption. If, however, the land was to be liable to the tax in the hands of one purchaser, but not of another, the value of the land to sell would not be increased in proportion to the outlay for redemption. To carry out the policy of the Act, therefore, we should expect to find that no new or shifting exemptions could arise or come into effect after the tax became permanent.

“The effect of the Acts on several points was explained

in *The Queen v. The Land Tax Commissioners*. Upon each district separately assessed a fixed quota was to be charged. That was not to be altered, although before levy the amount of tax redeemed within the district was to be deducted, and the remainder only levied. This was to be levied on the lands not exonerated by redemption. These lands were to be assessed yearly by an equal pound rate, sufficient to produce the required amount.

“We see, therefore, from this, in the first place, that the amount of tax payable on any particular portion of land would increase or decrease, not according as the value of land increased or decreased absolutely, but according as it increased or decreased relatively to the other lands in the district not exonerated. And, as any owner who was about to improve his land to such an extent as to have any effect on the rest of the district might be expected first to redeem the tax, no person could ever expect that the amount of tax upon his land would ever be sensibly diminished, although he would know that if he improved without taking the precaution of redeeming, the tax would be increased. We see, then, that this inducement for redemption, viz. that no loss was likely to be incurred, was actually held out by the Legislature.

“In the next place we see that if any portion of land chargeable with the tax came into the hands of a proprietor having a valid claim of exemption, a greater burden would be thrown upon the remainder of the district; for the amount to be raised would be the same as before, and the land on which it was to be charged less. This of itself is a strong argument for supposing that all exemption

must attach at the time these quotas were thus permanently fixed, and must in all changes of ownership follow the land, and not the proprietor. As long as the tax was imposed annually, although the Legislature in fact imposed the same quota on each district as they had done before, it must be taken that this was done deliberately and after consideration of all the changes that had taken place in the ownership of property since the last Act. Accordingly, we find in two cases arising under the temporary acts, viz. *Harrison v. Bulcock* and *All Souls College v. Costar*, that it has been held, with respect to additions to hospitals and colleges which had been made since exemption was first given, but before the Act imposing the tax under which the assessment complained of was made, that such additions were exempt. The distinction between those cases and the present was noticed in one of them, the *All Souls College* case, by the Chief Justice of the Common Pleas, Lord Alvanley, who says that, with respect to colleges founded since the Land Tax was made perpetual, he would say nothing. The inference we are disposed to draw from what was said in that case is, that the important thing to see in construing the exemption is, whether or not the land was within the exemption at the time of the passing of the Act imposing the tax. In that case it was, in the present it was not. Considering, therefore, the hardship on other proprietors in the district which would be caused by shifting exemptions, coming into operation on a change of ownership, together with the evident policy of the Act to make the charge on land a permanent one, with a view to encouraging its redemp-

tion for the benefit of the revenue, we think we should hold that there can be no exemption in the case of lands not exempt when the tax was made permanent. The same conclusion would, we think, necessarily be drawn from a strict construction of the words of the exception; for 'any hospital' must mean any existing hospital.

"Then the further question arises, whether this asylum is exempt as Crown lands; but to this we think the same reasoning will apply. There is, indeed, very great doubt whether, supposing this asylum to have been in existence in 1797, it would have been exempt on this ground, viz. as Crown land. It is true the Commissioners were appointed by the Crown, and to some extent for public purposes, but it was mainly to administer funds contributed for a particular purpose by individuals; and all taxes or other imposts charged upon them would be payable from these funds, and not from the public purse. But however that may be, we think that these lands, having been chargeable with Land Tax when belonging to Lord Spencer, as we presume to have been the case, although it is not distinctly stated, would be chargeable still in the hands of the Crown if directly purchased for the Crown. The case quoted to show that Crown lands are not chargeable with Land Tax (*Attorney-General v. Hill*) seems to us to favour this view rather than the contrary, for it was distinctly found in that case that the assessment complained of on Deptford Dockyard was for land which had formed part of the dockyards when the Land Tax was made perpetual. This shows that, in the opinion of the late Mr. Justice Wightman, who was then counsel for the

Crown, it was a material point in order to make out the exemption. It may be observed that the effect of holding that the Crown must pay the Land Tax chargeable on land which it may purchase is not really to tax the Crown, but merely to make the Crown pay the market price for land purchased. If the tax had been previously redeemed, of course the purchase-money would have been larger, and the difference between the purchase-money in the two cases would be gained by the Crown at the expense of the other proprietors of the district, not at the expense of the public revenue, whenever it purchased lands on which the tax had not been redeemed, if the exemption claimed were to be allowed. If there were any provision for reducing the amount of the tax to be levied on the district, of course the case would be different.

“There may be some difficulty in enforcing payment against the Crown, and we do not say that all or even any of the remedies provided for ordinary cases could be resorted to. We do not, however, think that this shows that the lands would not be still chargeable, or that an assessment, in which part of the quota to be levied on the district was assessed on Crown lands chargeable before they became Crown lands, would not be a good one.

“For these reasons we think that our judgment should be for the defendant.” Judgment for the defendant.

[May 18, 1867.]

(p. 30, *note*.)

Affirmed on appeal “in error” to the Exchequer Chamber (L. R., 2 Ex. Ch. 253).

WILLES, J., delivered the following judgment of the six judges who constituted that Court, when the further prin-

ciple was laid down that occupation, and not ownership, was the true ground of exemption.

WILLES, J. "We think the argument that the 38 Geo. III. c. 60, established the existing Land Tax, as a perpetual charge on the land then subject thereto, ought to prevail, and that the judgment of the Court below must, therefore, be affirmed. At the time when that Act passed, the 38 Geo. III. c. 5, had already been enacted in the same year, forming one of a series of Acts which from time to time imposed an annual Land Tax, and which made certain exemptions from it; and we may assume, for the purpose of this argument, that if the property, the liability of which to Land Tax is in contest, had, at the passing of the 38 Geo. III. c. 5, been in its present state, it would have been exempted from liability.

"The exemption is contained in sect. 25 of the Act, and is to the following effect [the learned judge read the words of sect. 25]. The Act, then, exempted all sites of hospitals, and it exempted also such of the revenues of certain institutions as they had enjoyed before 1693. But that Act had only a temporary operation; it granted the Land Tax for one year, and exempted the favoured institutions as they then were. In these circumstances, the 38 Geo. III. c. 60, was passed, making the Land Tax then existing perpetual, and if the Legislature had thought proper to make it perpetual, with a proviso that the future use of land for a purpose coming within any one of the categories of the 25th section should bring it within that exemption, it was competent to them to do so. Now, there is no express condition to that effect; but it is said

that, connecting the two Acts together, we are to infer that this was the intention, and to conclude that, although the site was charged for a year under 38 Geo. III. c. 5, and charged in perpetuum under 38 Geo. III. c. 60, yet when its use was changed to a purpose within the scope of sect. 25, its liability ceased. Is this argument sustained by the language of the Act, and by the ordinary rules of construction? We think not. The language of c. 60 is general and unqualified, and the intention of the Act appears to have been, that the Land Tax then payable should so continue to be paid in respect of the land then charged. When it says that the Land Tax shall be perpetual, it means that it shall be perpetually payable out of the land then subject thereto; and so far as relates to the language of the statute alone, it is not necessary to go beyond the first section to show the true construction to be that put upon it by the elaborate and lucid judgment of my brother Channell, the conclusion of which we adopt. The recital of the preamble is, that 'it may materially conduce to strengthening and supporting the public credit, and to augmenting the national resources at this important conjuncture, that the duty now payable for one year on land should be made perpetual, but subject to redemption and purchase.' This is the key to the Act, and it seems to indicate the construction that we adopt. It then enacts (sect. 1), that 'the several and respective sums of money charged by virtue of an Act of the present session of Parliament, &c., on the respective counties, &c., in Great Britain, in respect of the manors, messuages, lands, tenements, and hereditaments in the said Act mentioned, lying

within the same counties, &c., respectively, to be raised, levied, and paid unto his Majesty within the space of one year from the 25th of March, 1798, shall from and after the expiration of the said term (except as hereinafter mentioned) continue and be raised, levied, and paid yearly to his Majesty, his heirs and successors, from and after the 25th of March in every year for ever; and that all the several powers, rules, directions, provisions, articles, clauses, matters, and things contained in the said Act, &c., as far as the same are not varied or otherwise provided for in and by this Act, shall continue and be in full force, and be duly observed, &c., as if the same powers, &c. were particularly repeated and re-enacted in the body of this Act and expressly applied to the provisions thereof, subject nevertheless to the rules, regulations, restrictions, and conditions of redemption or purchase herein mentioned.' The 2nd section then excepts from the operation of the statute the sums charged by the previous Act upon personal property, salaries, &c.

"Now we have before us the case of property not exempted when either the former or the latter Act passed, and we have words in the latter Act making the existing liability perpetual. Unless, therefore, some special reason exists to the contrary, we must give the words their natural effect, and hold that the payment directed by the Act to be made must include every portion of the Land Tax then payable, and that the Land Tax here distrained for is the representative of a part of the Land Tax so made permanent. Now the purpose and provisions of the statute are all in favour of general taxation, and not in favour of the

particular exceptions. Not only is the tax perpetually imposed in terms, but it is to be presently dealt with as if leviable for ever. Thus it is made the subject of purchase or transfer. That purchase is to be effected by transferring to the government a sum of consols sufficient to produce a revenue somewhat exceeding the annual value of the Land Tax redeemed, with provisions for compensation out of the sum of consols originally paid, in the event of depreciation in the value of the tax. But there is no provision for the case of land, which by changing its character, and thus (as is contended) coming within the exception from the general taxation, might cease to produce anything. I will leave the argument on the statute with the remark, that its provisions rather tend to support the conclusion that no such extension of the exemption was intended as that now claimed. This branch of the subject is abundantly observed upon in the judgment of the Court below, and beyond indicating this conclusion it is unnecessary to follow out the argument farther.

“But, the inference from other parts of the enactment thus supporting the natural meaning of the words of sect. 1, various arguments were nevertheless urged on the part of the plaintiffs in error, to persuade us that this is not the true construction. It is said that on such a construction an absurdity will follow, for if c. 60 made perpetual the charge on lands then subject to it, so it also made perpetual the exemptions then existing. We were further told that there were certain provisions for the benefit of classes of persons which required this construction, and that a similar difficulty arose with respect to

certain kinds of property not then existing. Thus, as to lands then used for the site of a hospital, the question was proposed, could it be said they should not be taxed when they ceased to be so used? As to the exempted persons, were only existing schoolmasters to be exempted, or was it not intended to include all schoolmasters? And as to mines and quarries which did not exist when the Act was passed, were they to be free from the tax when they were afterwards opened? These, perhaps, were the most considerable of the arguments addressed to us on behalf of the plaintiffs, but they are without basis. First, as to the question of whether land used as a hospital at the time both Acts were passed, but since (as in the case of St. Thomas's Hospital) diverted to another purpose, must in its new use be taxed, it does not now call for decision. When it arises, it will probably be said on the part of the public, insisting upon its liability, that the reason for the exemption ceasing, the exemption itself ceases; that it applied only so long as the land continued to be used in the state in which it then was. On the other hand, it will be urged that the intention of the Act was to treat hospitals and other exempted institutions as having redeemed the Land Tax, not only whilst they themselves used the land, but when they came to dispose of it. These would be the formulas which would have to be adopted as the expression of the two opposed views, but whichever view the Court might adopt, it would not affect the present case, for it is obvious that no such considerations here arise. And I may add that no such question as that suggested, or as that we have to decide upon, could have arisen

under the annual Act containing the exemption, for it imposed the tax for the year on land *in statu quo*. Neither does that part of the exemption which relates to persons bear upon the question; because the Act is here not dealing with individuals but with property, and provisions relating to classes of persons seem to have no application to a perpetually existing object of property, which may change its use. For, to the end of time, money will be made by teaching; the teachers may change, but the occupation, by which alone the class is ascertained, continues, and still produces money. But an end is put to this question by the statute taking away the tax in respect of personal property, salaries, &c. The last case was that of mines and quarries, as to which I will only say, that mines and quarries are nothing more than land and the potential profit of land in existence at the time the Act was passed, and probably there will be no great difficulty in dealing with the case when it arises. The language, therefore, of c. 60 being general, and, indeed, universal in respect of the Land Tax then payable, and the general language of the first section not being modified in that or any other statute, we must say that the Land Tax is not taken away by reason of the change in the character of the land.

“In conclusion, with respect to the claim of immunity on the ground that the hospital is Crown property, it could not at the time the Act was passed have been considered as a thing required by usage and propriety that Crown property should not be taxed, merely because it was Crown property, and not on account of the occupation of the Crown, which is the true ground of exemption,

seeing that ss. 49, 50, contain express provisions for taxing Crown land, and provide machinery for the redemption of the tax. The judgment of the Court below must be affirmed."

BYLES, BLACKBURN, KEATING, SHEE, and MONTAGUE SMITH, JJ., concurred. Judgment affirmed.

HODGSON AND ANOTHER v. PEARSON.

[*Common Pleas*, Nov. 20, 1874: reported 31 *L. J.* 679.]

(See pp. 32 and 81.)

KEATING, J.: "In this case the question arises upon the validity of an assessment to the Land Tax made upon Richard Hodgson by the Commissioners of Land Tax, in which the rate is made on a rental of 386*l.*, and the sum assessed is 12*l.* 17*s.* 4*d.* Mr. Hodgson's executors say he was not liable to that assessment, asserting that so far back as the year 1799 the manor and lands of a manor in the parish of Chingford were redeemed from the tax. In support of that assertion they bring before us a certificate, dated June 1799, which states that the manor of Chingford St. Paul, and other lands and hereditaments, are charged with the Land Tax to the amount of 70*l.* 4*s.*, 'all which messuages, lands and premises,' runs the certificate, 'are situate in the parish of Chingford, and are rated as under.' Then follows the schedule of rating. It is to be observed that whilst the certificate contains a minute description of the lands and hereditaments said to be included in the rate of 70*l.* 4*s.*, the schedule of rating contains no description whatever, except the names of the supposed

occupiers of the property in respect of which the assessments are made. The total is 70*l.* 4*s.*, but inasmuch as the names only of the parties assessed are given, we have no means whatever of knowing how far the assessments correspond with the descriptions mentioned in the certificate. Now it is contended for the defendant that in order to seek relief from the assessment to the Land Tax, it lies upon the present plaintiffs to show that the land in respect of which the exemption is claimed was assessed and afterwards exempted from the assessment; and it is contended that this exemption is not shown, inasmuch as the certificate does not fit in with the schedule, and is therefore incorrect. Undoubtedly it is impossible to reconcile the certificate with the schedule. The certificate contains a positive assertion that the hereditaments as described are rated under the 70*l.* 4*s.*; but upon looking to the sums and names, there is certainly no accurate correspondence between them, and the question is, which is right and which is wrong. Now it would seem that the contract is made first, and the certificate is enrolled afterwards; but the certificate would apply only to the lands in the parish of Chingford, whereas the contract includes also five acres and a half of commonable land in the parish of Walthamstow. It is clear, therefore, from these assessments, that they were not indifferent altogether to commonable land. The certificate and the description in the contract agree accurately, with the exception I have pointed out, and the amount, 70*l.* 16*s.*, is the amount of 70*l.* 4*s.* plus the 12*s.* in the parish of Walthamstow. Here again is a description which it is impossible to reconcile. It is contended

with great force by Sir Henry James, that it is impossible that the manor and these lands—the waste of the manor and the woodland of the manor—could have been included in this assessment. I cannot say that I see any impossibility in it, although I agree that there is a very great discrepancy between the two assessments. It is quite impossible to reconcile the assessments with the description in the contract and the certificate. But I should say that it is to be taken more against the party granting the enfranchisement than the other, what it is that the Crown means to enfranchise; and if a minute description of the land intended to be enfranchised is set out in the contract and certificate, it is not the circumstance of the schedule being inaccurate that will necessarily derogate from the force of that description. Now we are to draw inferences of fact. All this takes place in the year 1799, and things remain undisturbed until upon various occasions some of the commoners, and also the lord of the manor, began to inclose, and the lord of the manor also erected a residence and farmhouse upon a portion of the inclosure. We have not the dates of all these operations, nor do we know when the state of things occurred which first awakened the vigilance of the Land Tax Commissioners. All we know is, that it was not until the year 1867 that the tax was imposed. It seems to me that if we are to grope our way in finding out how far the schedule does or does not necessarily exclude the lands described in the certificate and the contract, that the undisputed facts of acquiescence tend strongly to show that these lands were considered as included, and so treated by the Land Tax Commissioners.

But the strength of the plaintiff's case is, that he has in express terms that which would include his lands stated by the Commissioners in 1799 to be exempted; and I do not think that that description can be defeated by merely pointing to a schedule which is no doubt referred to in the certificate, but which either must be inaccurate itself, or must render the contract and certificate inaccurate. I prefer to give weight to the certificate and contract, and think, under all the circumstances, that the plaintiffs are entitled to our judgment.

LUSH, J.: "I am of the same opinion. The property which is said to be assessed consists of a residence and farmhouse, together with farm offices and buildings, and a considerable quantity of land. The whole estate was, in the year 1799, part of the waste of the manor. At various times since that period portions of the waste have been inclosed, and came into the hands of Mr. Hodgson as a purchaser for value; the whole of these are comprised in what is called the Hawkwood Estate. The question is, whether the Hawkwood Estate has or has not been redeemed, and whether it is or is not exempt from Land Tax. It is admitted, and cannot indeed be denied, that if the waste of the manor was comprised in the contract for redemption, it cannot be assessed now. The Land Tax once redeemed is redeemed for ever. All we have, therefore, to determine is, what is the reasonable construction of the contract of the 29th June, 1799. Now this purports to be a contract whereby the commissioners certify that they have 'contracted with William Snell, of Shenley, in the county of Hertford, Esq., the committee of John

Snell, Esq., a lunatic, for the redemption of 70*l.* 16*s.* Land Tax charged upon the manor of Chingford St. Paul, and two inclosed groves, containing together by estimation twenty-six acres, and on the woodland on the aforesaid manor in the occupation of the said John Snell, Esq.' It then enumerates various other properties, which are to be subjects of the contract. The words, 'which are charged on the manor together with other properties the groves and woodlands of the manor,' *prima facie* embrace not only the seignorial rights, but also the waste lands and everything which is the property of the lord; therefore it is said in terms that the Land Tax which it was proposed to redeem was charged upon the manor. I fail to see anything whatever to qualify these words. We read, 'all which manors, messuages, lands, and premises are situate in the parish of Chingford, in the said county of Essex, and are rated in the duplicate as follows.' We then find a list of names set out, the name of Mr. Snell as proprietor, and the names of a number of other persons as occupiers of that which constitutes the manor and other lands described in the contract. It is contended that there is an inconsistency, because the contract states that the manor, together with the woodland and groves, at the date of the contract were in the occupation of John Snell, the proprietor, whereas in the schedule there is no land put down as being in the occupation of John Snell. But for aught we know, an old description was adopted when the assessment was made out in 1799, and persons were put down as occupiers who had been so once, but had ceased to be so. I see no necessary inconsistency, no im-

possibility of the lands which are put down as being in the occupation of these persons, embracing the manor. There may have been a demise of the manor or of the waste lands; the manor may have been at one time or the other in the occupation of these persons. I may add that we do not know the acreage of the manor or of the waste lands, or the rental of the manor; there are no facts whatever stated on this case which enable us to draw the conclusion that the mistake is in one part of the contract more than in another. We must give effect to the words of the contract. The Commissioners say that the proposal is that the contract is to embrace the whole of the manor, together with the other lands, and that what they mean to redeem 'is rated in the duplicate under the following terms.' We must come to the conclusion that the whole of the manor was exempted—and that would include the waste lands which are the subject of the present action. I think, therefore, that we can only put this construction upon the contract without in effect saying where the error is."

DENMAN, J.: "The only difficulty that has presented itself to my mind in agreeing to the full extent with the judgment of my brother Lush is, that the fifth paragraph of the case finds as a fact, that 'although in the body of the certificate the manor of Chingford and two inclosed groves, containing together by admeasurement twenty-six acres, and the woodland in the aforesaid manor are specifically mentioned as being included among the lands stated to be charged with the Land Tax, neither the schedule to the certificate nor that to the contract, nor the duplicate

assessment, comprises the said manor, groves or woodland, and there is no evidence beyond the statement in the certificate and contract that the said manor, groves or woodland ever had been charged with Land Tax.' Therefore I think we are bound to take it that in the duplicate both to the contract and certificate these lands are not included, and that they are not to be found among the things stated in the duplicate. But still the question is left open whether there is evidence here upon which we can conclude that these particular lands were really included in the contract. In order to decide that point, the first thing we have to look to is this contract, which was made on the 29th June, 1799, two years after the passing of the Act under which it was made. It is a contract for the express purpose of redeeming the Land Tax upon the manor of Chingford and two inclosed groves and woodlands. The parties agree that the Land Tax upon these lands shall be redeemed, and in accordance with the Act a certificate is given by the Commissioners in the August of the same year, stating that the manor and manor house, and the woodlands, and all the disputed parts of the property, are charged with the tax to the amount of 70*l.* 4*s.* The certificate goes on, no doubt, to set out a duplicate which makes out the 70*l.* 4*s.* in a manner which, according to the finding in the case, does not specifically include the land, at least not the manor and the woodlands. How this happened it is not for us to speculate. We are bound by the words of the certificate, and I apprehend that it is a fallacy on the part of the defendants to say that the onus of proof lies upon the other side to make out their

exemption. We have the statement upon the face of the certificate that the manor and woodlands, and the other subjects of dispute, are the subjects of a contract for the redemption of Land Tax, and that they have been charged with Land Tax. It is difficult, no doubt, to reconcile that statement with the duplicate; but we do not know how and on what principle the statement was made. It may be, that in assessing the value of these lands very little indeed was attributed to the value of the manor, and very little to the waste lands, and yet that, in point of fact, they have been assessed so that the Land Tax upon them could be redeemed. However that may be, as against the certificate itself and as against the practice under it, as found in the case, that for a long series of years the tax was not claimed, I think the onus of proof is upon those who contend now that this transaction did not include what was intended to be included in the contract, and which is included in the governing words of the certificate. I think, therefore, in the absence of any clear proof that this manor was not rated and not exempted, we are bound to hold that it was rated and was exempted."

Judgment for plaintiffs.

RABBITS v. COX.

[*Court of Appeal*, April 30, 1877: *reported* 46 *L. J. (N. S.)*, 498.]
(*See p. 30.*)

JAMES, L. J.: "It appears to me that we must differ from the Court below (*a*). We cannot get over the plain words of the Act which are in sect. 29—'Provided always,

(*a*) Queen's Bench.

that all such lands, revenues, or rents belonging to any hospital or almshouse, or settled to any charitable or pious use, as were assessed in the fourth year of their late Majesties King William and Queen Mary, shall be and are hereby adjudged to be liable to be charged towards the payment of this present aid.'

"If it had stopped there, something might have been said for the respondent's contention, but it goes on to put the matter beyond all doubt by the following negative words: 'And that no other lands, tenements and hereditaments, revenues or rents whatsoever, then belonging to any hospital or almshouse, or settled to any charitable or pious uses as aforesaid, shall be charged, taxed or assessed by virtue of this present Act,' and so forth; from which it is as plain as possible that the lands are not to be charged if they are other than 'such lands as were assessed in the fourth year of King William and Queen Mary.' The lands in the present case are 'other than such lands,' for they were not assessed in the fourth year of William and Mary. Then it is said that that section must be read with sect. 25, and that in sect. 25 something is to be found from which we must imply that these lands are not exempted. I must say I cannot follow that argument. The words in the two sections are not the same. Sect. 29 begins a new subject. There are several intervening sections, to which it might equally be said to belong. I see no reason why we should depart from the plain meaning of the words. The exception must be construed for the benefit of the charity. It is so construed if it is held to apply to the lands in the hands of a purchaser; but not unless it is so construed, for the new site is not exempted by means of

this Act. Therefore the question for our opinion ought to be answered in the sense that the appellant in this case is not liable to pay the Land Tax in respect of these premises."

BAGGALLAY, L. J.: "I was considerably impressed by Mr. Lyon's argument. But I cannot think that the proviso in sect. 29 was intended to be limited in its operation to cases under sect. 25. Not only is there a difference, but the whole phraseology and subject-matter of the two sections is distinct. There are none of the same general words in sect. 25 which we find in sect. 29, which speaks of 'lands, tenements, hereditaments, rents, and revenues.' Therefore, I am of opinion that the latter section is of general application, and not limited to the time during which the lands are occupied for charitable purposes."

BRAMWELL, L. J.: "I am of the same opinion."

BRETT, L. J.: "The argument of Mr. Lyon has not convinced me, though it was very clearly and very courageously put forward. I cannot see how this case can be taken out of the negative part of sect. 29. I decline to construe an Act of Parliament according to my own views of justice, or of what ought to be enacted. The negative words in the section are perfectly plain, and comprehend the case before us.

"We find that the Act of William and Mary deals with hospitals and their sites. Again, we find sect. 25 of 38 Geo. III. c. 5, deals with the same subject-matter. But when we come to sect. 29, it is not dealing with hospitals and their sites, but with certain other things—lands, revenues and rents, which may or may not be assessed, and after having enacted that such of these lands, revenues

and rents as were chargeable in the fourth year of William and Mary are to be charged, the section, still speaking of lands and not of sites, proceeds with the negative words that 'No other lands, tenements, hereditaments, revenues or rents whatsoever are to be charged,' 'anything herein contained to the contrary notwithstanding,' making no reference to the persons who own or occupy the lands, but to the lands themselves, certain of which are charged and certain of them not charged. I waited in vain for an explanation of the word 'then' in the section, and Mr. Lyon, after all, was obliged to confess that his treatment of the word was practically to strike it out. But this course is opposed to the rule of construction that in construing an Act effect must be given if possible to every word. The only way in which the word 'then' can be properly interpreted is, by applying it to the time of the passing of the Act of William and Mary."

Judgment reversed.

Judgment affirmed on appeal to the House of Lords.

COX v. RABBITS.

(See p. 30.) [March 26, 1878: reported *L. R. 3 App. Cas.* 473.]

THE LORD CHANCELLOR (Lord Cairns):—

"My Lords, the question to be decided on this appeal is an extremely short one, and the argument is now condensed into a very narrow compass. The Court of Appeal, which consisted of four judges, was unanimously of opinion that the property in question, formerly the site of a hospital, though now no longer so, having in the beginning once enjoyed exemption from the Land Tax, still kept

that exemption, and I own that I can see no reason whatever to differ from the decision of the Court of Appeal.

“ I think the view which has been presented on behalf of the respondent is the correct one, namely, that although the Act of Parliament (38 Geo. III. c. 5) is not perhaps in some respects perfectly clear in its words, yet the intention and effect of it was merely to continue a charge existing at the time the Act was passed, and there to leave the matter. Where the charge existed when the Act passed, there it remained ; but where the effect of the Act was not to impose a charge, no charge could take place, and nothing has been done since to impose a charge, for the later Act of the 38 Geo. III. c. 60, merely made the existing annual charge perpetual.

“ Looking at it in that point of view, the 29th section of the Act of Geo. III. is perfectly intelligible ; and although there may, as between the 29th section and the 25th section, be a certain amount of duplication of enactment, still the object of the 29th section is obvious. It enacts that ‘ all such lands, revenues, or rents belonging to any hospital or almshouse, or settled to any charitable or pious use, as were assessed in the 4th year of the reign of their late Majesties King William and Queen Mary, shall be, and are hereby adjudged to be, liable to be charged towards the payment of this present aid.’ Now it is admitted that the land in question, the land as to the taxability of which your Lordships have to express your opinion, does not come within this part of the 29th section, because it was not assessed in the fourth year of the reign of William and Mary. But the section then continues thus : ‘ and

that no other lands, tenements, or hereditaments, revenues, or rents whatsoever then belonging to any hospital or almshouse, or settled to any pious uses as aforesaid, shall be charged, taxed, or assessed by virtue of this present Act towards the said sum to be raised, anything herein contained to the contrary notwithstanding.' Now here we have 'other lands' which were 'then belonging to a hospital,' and therefore we have an Act of Parliament declaring with regard to those other lands, that they shall not be charged, taxed, or assessed by virtue of this present Act, and that, wholly regardless of the fact whether the land has or has not continued to be land used for the preservation of one of these institutions.

"My Lords, a Taxing Act must be construed strictly; you must find words to impose the tax, and if words are not found which impose the tax, it is not to be imposed. Now, my Lords, it appears to me that, so far from there being words imposing a tax here, you have words which clearly declare that the tax is not to be imposed; and I find nothing to shift to some subsequent period the taxing of this property, or in effect to make this Act subservient to the purpose of imposing a tax on land which in the first instance is declared to be exempt from tax.

"I therefore propose to your Lordships that this appeal be dismissed with costs."

LORD O'HAGAN:

"My Lords, I am of the same opinion. The point in this case is one which, although it is material, is certainly both very short and clear.

“It is our duty as a Court of construction to give effect to the terms of an Act of Parliament, if those terms are plain and unequivocal, and we are not at liberty to wander beyond its terms, or to contravene its intention. Now here we have an Act which is as plain and unequivocal in its terms as ever came before your Lordships. The 29th section of the Act of George III. is open to two constructions, and it was, I think, almost confessed by the very able counsel who argued the case on behalf of the appellant, that if the 29th section had stood alone, he could not have argued the case. That section makes the matter perfectly clear within itself. In the first place, it affirmatively declares the liability of certain premises to the tax, and then, in negative words, it emphatically relieves other sets of premises from any liability whatever. It is conceded that the premises in question are such as are within the description of those so relieved from liability, and therefore it does not seem to me possible that we should differ from the unanimous decision of the Court of Appeal. For my own part, I should have had no doubt at all in the case, but that I find that very able judges have taken a different view of it.

“My Lords, all that we have heard in the way of argument amounts to this: there has not been any attempt to construe the 29th section according to the view of the appellant, but there has been an attempt to connect that section with the 25th section, and to say that because the 25th section deals with a portion of the subject-matter of the 29th section, therefore we are to forget the 29th section altogether and to regard only the 25th section. Now

I agree with the observation of the last learned counsel who addressed the House, that if the 25th section is to be considered partial, and the 29th section universal, and we must choose between the two, we should take the latter as the more extensive in its effect. I do not think that it is necessary for me to say more than that there is no conflict whatever between those two sections; and, although the one goes farther than the other, it does not follow that we, as a Court of construction, should fail to give effect to all the portions of the larger of the two. The nature of the Act has been referred to by my noble and learned friend. It is not only a Taxing Act; it is also an Act in relief of charitable institutions, and we may reasonably suppose that it was the intention of the Legislature to relieve them not merely for the time but permanently; and if the construction put upon this statute by the learned judges of the Court of Appeal be not the correct construction, it is plain that the benefits which were intended by the Legislature to be accorded to these charities would be taken from them.

“On the whole, my Lords, I feel no doubt at all that this appeal should be dismissed.”

LORD BLACKBURN :

“My Lords, I am of the same opinion.

“The Act of the 4 Wm. & Mary, which originally imposed the Land Tax, gives in the 25th section an enumeration of the exemptions. It provides that ‘nothing contained in this Act shall extend to charge any college or hall in either of the two universities;’ and then it enumerates a considerable number of hospitals and col-

leges by name, ending with 'the college of Bromley,' and it goes on, 'or any hospital'—the general word 'hospital' comes in there—'for or in respect of the sites of the said colleges, halls, or hospitals,' and then it provides afterwards, repeating the same enumeration, that the Act shall not extend to charge any of the houses or lands belonging to the hospitals and colleges which it enumerates. Then it goes on to provide that it is not to 'extend to charge any other hospitals or almshouses for or in respect only of any rents or revenues payable to the said hospitals or almshouses being to be received and disbursed for the immediate use and relief of the poor in the said hospitals or almshouses only.'

"Now when the Act of the 38 Geo. III. c. 5, came to be passed, the 25th section provided 'that nothing in this Act contained shall extend to charge any college or hall in either of the two universities or the colleges of'—and then it enumerates them all, ending with 'Bromley,' 'or any hospital in England,' 'for or in respect of the sites of the said colleges, halls, or hospitals.' Then we come afterwards to these words: 'or to charge any of the houses or lands which on or before the 25th day of March, 1693' (that is, before the Act of William and Mary), 'did belong to the sites of any college or hall in England,' 'or to,' and then it enumerates the hospitals. Then comes the third thing, namely, 'or shall extend to charge any other hospitals or almshouses in England, Wales, or Berwick-upon-Tweed, for or in respect only of any rents or revenues which on or before the said 25th day of March, 1693, were payable to the said hospitals or almshouses, being to

be received and disbursed for the immediate use and relief of the poor of the said hospitals and almshouses only.'

"My Lords, the hospital, the old site of which you are now dealing with, St. Peter's Hospital, was not one of those enumerated hospitals, though it did exist before 1693. It came within the general words of the 25th section of the Act of 4 Wm. & Mary, no doubt, and its site, at that time, was not liable to be assessed to the Land Tax, because it was 'a hospital' within the meaning of that Act. Now, the 25th section of the Act 38 Geo. III. applies thus far; it speaks of 'any hospital,' that is to say, any hospital existing at the time of the passing of the Act of 38 Geo. III., whether existing in William III.'s time or not, and says that if it existed at the time of the passing of the Act of 38 Geo. III., no such hospital shall be charged in respect of its site. The previous enactments had been to the effect that a large sum of money should be imposed upon each county, and that the charge upon each county should be divided among the different parishes and districts within the county, and that ultimately it should be levied and charged upon the lands or the persons occupying them. Then this 25th section exempts a hospital from charge in respect of its site. Now, if the hospital could not be charged, nobody would be chargeable in respect of the site of the hospital as long as it continued such. In the nature of things, the college or the hospital must be itself the occupant of its site, and the Land Tax could not be imposed upon it while it so continued; but when it ceased to be so, unless there was some other exemption it would be liable to be taxed as land

under the previous enactment. If there had been only this enactment, that a college or hospital should not be taxed in respect of its site, the land would have been exempt no longer than it was occupied as such site.

“But I confess it seems to me that the 29th section must have been passed expressly with the view of meeting that, because it says, ‘it is hereby enacted that all such lands, revenues, or rents belonging to any hospital, or almshouse, or settled to any charitable or pious use, as were assessed in the 4th year of the reign of their late Majesties King William and Queen Mary, shall be and are hereby adjudged to be liable to be charged,’ that is to say, all lands belonging to any college or hospital which were not part of the site, and the moneys derived therefrom which were not applicable to the purpose of the relief of the poor of the college, hospital, or almshouse, were liable to be charged. But then it enacts in negative terms ‘that no other lands’ ‘belonging to any hospital, or almshouse, or settled to any charitable or pious uses as aforesaid, shall be charged, taxed, or assessed in virtue of this present Act, towards the said sum to be raised in England.’ Now, this being a hospital which existed in the reign of William III., and these lands having then been part of the site of that hospital, I cannot find any words in this Act which would make this not apply; ‘and no other lands whatsoever then belonging to it shall be charged or assessed,’ that is to say, no other than those which were already taxable. This land was not assessable in the reign of William III., and there is nothing whatever to re-impose a charge on the land after it had once been taken away.

"It seems to me, therefore, that the decision of the Court of Appeal in this case was right, and should be affirmed."

LORD GORDON :

"My Lords, I do not now think it necessary to say more than that I consider the decision of the Court of Appeal to be quite right."

Order appealed against affirmed ; and appeal dismissed with costs.



REG. v. LAND TAX COMMISSIONERS FOR MORPETH.

[*Queen's Bench*, April 14, 1877 : reported 36 *L. T. (N. S.)* 374.]

(See pp. 24 and 30.)

COCKBURN, C. J. : "I think this writ of mandamus must be made absolute. If the statutes had from the first been strictly interpreted and acted upon, these lands of Edington and Molesden would have contributed to the quota of the parish of Mitford, but by some mistake they have from the original imposition of the tax been assessed as part of the adjoining parish of Meldon. It would be in the highest degree unjust that the long established assessment of land in Mitford should be lowered at the cost of the adjoining parish, the quotas of both remaining the same ; and it would be monstrous if a transfer causing such an injustice, although by order of the Land Tax Commissioners, could not be rectified. It seems to me, however, that by the case which has been cited, we are at liberty to hold that an assessment, so long established as this has been, is as un-

alterable as the quota to which it contributes. The Commissioners, therefore, should not have disturbed the usage by which these lands had always been rated and assessed in Meldon, but should have allowed the appeal of the landowner who was interested in the continuation of the old assessment."

MELLOR, J.: "I am of the same opinion. It may be that either conclusion must be attended with some injustice, and it may well be contended that the intention was to assess lands in the places where they lie. But I feel we ought to uphold this usage, however it arose, by which the several contributions have become definitely and equally fixed, if we have any authority to do so. I think we may under the case cited, and our judgment will therefore be for the prosecutor, who was the appellant before the Commissioners."

Judgment for the Prosecutor.

SIMPKIN v. ROBINSON.

[*Exch. Div.*, February 21, 1881: reported 45 *L. T.* (*N. S.*) 221.]
(See pp. 23 and 49.)

POLLOCK, B.: "In this case the County Court judge gave judgment for the plaintiff, and directed that it should be entered with costs, and damages 20s., in respect of what is alleged by the plaintiff to have been an illegal distress put into his premises for the purpose of recovering a sum assessed upon him for Land Tax. From that decision of the County Court judge the defendant in the Court below appealed. Now the distress, it appears, was perfectly regular, so far as the issuing of the warrant and the levy-

ing the distress on the respondent's goods are concerned, and indeed in all other respects; and it seems to me to be sufficient for the actual decision of the present case to say that it is brought within the decision in *Patchett v. Bancroft* (7 T. R. 367), decided in the Court of King's Bench so far back as the year 1771, in which it was held, in an action of trespass for taking the plaintiff's cattle, and which was tried at York, that the person whose cattle were taken could not, if the distress-warrant was regular, and the conduct of the officers who executed that warrant was right, go behind the warrant (*b*), because, the power of distress being legal, those who executed the warrant were entitled to execute it, and justified in so doing. It was further held, too, in that case, that the judgment of the Commissioners of Land Tax, on appeal to them, is conclusive in an action of trespass brought against an officer for levying under a warrant of distress. It is to be observed that in that case the Court treat the proceedings as a *judgment* by the Commissioners of Land Tax, and it may be well also to observe, in passing, that in a case in this Court, or rather I should say in the then Court of Exchequer in 1850, In the Matter of The Land Tax Assessment for the Holborn Division of the County of Middlesex (5 Ex. 548), on an application being made to the Court of Exchequer for an order or mandamus to the Commissioners of Land Tax to cause the proper charge on a particular division to be equally assessed (*c*), that Court held, after a very long argu-

(*b*) See also *Allen v. Sharp*, 17 L. J., Ex. 209.

(*c*) But see the more recent and elaborate judgment in the Tower case, p. 120, and referred to, p. 23, note (*h*).

ment and great consideration, that they had no power to interfere, and upon this ground, namely, that the Commissioners of Land Tax were the constituted authority who had under the statute to deal with the matter in question, and that their authority was like the authority of any other Court and could not be appealed against, except under the provisions of some statute which had so provided. Now, it may at first sight seem to be somewhat hard, as no doubt every one who heard what the plaintiff, Mr. Simpkin, said in this case will understand and appreciate, and as he feels it to be, that the Commissioners should not be in any sense responsible for their acts, but the answer to that is, that the Land Tax Commissioners are chosen from persons of position in each county or division, and are persons who are in every way responsible, and any objection to their appointment may be made, and if there be any irregularity or impropriety in the assessment of any particular division an appeal may be made to those Commissioners, whose authority and whose judgment, to use the language of that case in the King's Bench, in 7 Term Reports, is conclusive, exactly in the same way as the judgment of the Commissioners of Tithes or of other taxes is made in any other case. That being so, it only remains to say that the complaint against the assessment is one which no doubt is somewhat astonishing. It is, that whereas the nominal sum or quota to be raised out of this particular division of Southport is only 90*l.* 18*s.* 10½*d.*, yet, because of the great increase in value by reason of building which has taken place in recent years in Southport, the Commissioners have thought fit to raise 847*l.* 5*s.* 6*d.*,

not of course pocketing that largely increased sum or handing it over to the Crown, but giving to the persons upon whom they so levied it the full advantage and benefit of it in this sense, that, under the Act of 24 & 25 Vict. c. 91, ss. 39, 40 (*d*), in the course of a certain number of years (in the present case it was said to be four), the Land Tax on this district would, if this quota continues to be paid, be wholly and entirely extinguished. It is considered to be a better mode and less vexatious and troublesome to the taxpayer that a large quota should be taken for a few years, so as to wholly extinguish the tax after that certain number of years, than to go on perpetually taxing and entering into people's houses under distress for amounts that might perhaps be under one-tenth of a penny in the pound. That, it is said, is the reason why this course was adopted. But there is always this to be said, whatever the Commissioners may be, that Commissioners, like all other persons to whom authority is delegated in this country by the Crown, are responsible, and can only exercise their duties in the proper way. If the Commissioners in this case or in any other case have committed any dereliction of duty, for that offence they may be made liable to an indictment, or possibly to a criminal information, as the case may be. In the present case, however, it appears that the quota was established; and then, without going into details, it is only necessary to say that the proper course for any person objecting to that quota to take was to proceed under the sections of the 38 Geo. III. c. 5,

(*d*) Now s. 114 of T. M. A.

which contain provisions relating to appeals in case either of inequality or excess. I need not go through them, for they were fully and at length referred to by Mr. Fullarton. They are contained in sects. 8, 17, 23, and 84. All those sections show most clearly that the Legislature has given a constituted authority to which appeals may be made, and that if no appeal is made, and the rate stands, then the rate which is assessed is to be considered as the rate payable under the judgment of the Commissioners; and thus those who act as mere ministerial officers of the Commissioners are protected by the fiat of the Commissioners. That seems to be the result of the whole matter; and it is, I think, sufficient to say that, had the several sections of the Act of Parliament, and the cases which have been cited before us to-day, been brought to the attention of the learned County Court Judge, he certainly could not have come to the conclusion to which he did come. They have been brought to our attention here, and we are now clearly of opinion that the judgment of the County Court Judge cannot stand, and that it must be reversed; but we do not think it is a case in which we should give costs. There will, therefore, be judgment for the appellant without costs."

HAWKINS, J., concurred.

Judgment for Commissioners.



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